

Senator Curtis S. Bramble proposes the following substitute bill:

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;



- 26 ▶ expands provisions prohibiting operation without a license or permit; and
- 27 ▶ makes technical and conforming amendments.

28 **Monies Appropriated in this Bill:**

29 This bill appropriates:

- 30 ▶ as an ongoing appropriation subject to future budget constraints, \$1,589,100 from
- 31 the Liquor Control Fund for fiscal year 2008-2009 to the Division of Substance
- 32 Abuse and Mental Health within the Department of Human Services.

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

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

- 57 **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 58 **32A-5-101**, as last amended by Laws of Utah 2006, Chapter 162
- 59 **32A-5-102**, as last amended by Laws of Utah 2007, Chapter 284
- 60 **32A-5-104**, as last amended by Laws of Utah 2003, Chapter 314
- 61 **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 62 **32A-7-101**, as last amended by Laws of Utah 2004, Chapter 268
- 63 **32A-7-106**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 64 **32A-8-101**, as last amended by Laws of Utah 2003, Chapter 314
- 65 **32A-8-401**, as last amended by Laws of Utah 2004, Chapter 268
- 66 **32A-8-501**, as last amended by Laws of Utah 2003, Chapter 314
- 67 **32A-8-503**, as last amended by Laws of Utah 2004, Chapter 268
- 68 **32A-8-505**, as last amended by Laws of Utah 2007, Chapter 284
- 69 **32A-10-101**, as last amended by Laws of Utah 2007, Chapter 284
- 70 **32A-10-102**, as last amended by Laws of Utah 2007, Chapter 284
- 71 **32A-10-201**, as last amended by Laws of Utah 2006, Chapter 162
- 72 **32A-10-202**, as last amended by Laws of Utah 2007, Chapter 284
- 73 **32A-10-204**, as last amended by Laws of Utah 1991, Chapter 5
- 74 **32A-10-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 75 **32A-10-306**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 76 **32A-11-106**, as last amended by Laws of Utah 2004, Chapter 268
- 77 **32A-12-212**, as last amended by Laws of Utah 2005, Chapter 152
- 78 **32A-12-301**, as last amended by Laws of Utah 2006, Chapter 162
- 79 **32A-12-307**, as last amended by Laws of Utah 2003, Chapter 314
- 80 **32A-12-603**, as last amended by Laws of Utah 2004, Chapter 268
- 81 **53-10-102**, as last amended by Laws of Utah 2000, Chapter 1
- 82 **76-5-113**, as last amended by Laws of Utah 2004, Chapter 280

83 ENACTS:

- 84 **32A-1-701**, Utah Code Annotated 1953
- 85 **32A-1-702**, Utah Code Annotated 1953
- 86 **32A-1-703**, Utah Code Annotated 1953
- 87 **32A-1-704**, Utah Code Annotated 1953

- 88 **32A-1-801**, Utah Code Annotated 1953
- 89 **32A-1-802**, Utah Code Annotated 1953
- 90 **32A-1-803**, Utah Code Annotated 1953
- 91 **32A-1-804**, Utah Code Annotated 1953
- 92 **32A-1-805**, Utah Code Annotated 1953
- 93 **32A-1-806**, Utah Code Annotated 1953
- 94 **32A-1-807**, Utah Code Annotated 1953
- 95 **32A-1-808**, Utah Code Annotated 1953
- 96 **32A-1-809**, Utah Code Annotated 1953

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

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

100 **32A-1-105. Definitions.**

101 As used in this title:

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

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

107 (a) beer;

108 (b) flavored malt beverage; and

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

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

111 ~~[(i) contain:]~~

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

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

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

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

- 119 (i) ~~[extracts]~~ except as provided in Subsection (3)(c), extract;
- 120 (ii) ~~[vinegars]~~ vinegar;
- 121 (iii) ~~[ciders]~~ cider;
- 122 (iv) ~~[essences]~~ essence;
- 123 (v) ~~[tinctures]~~ tincture;
- 124 (vi) food ~~[preparations]~~ preparation; or
- 125 (vii) an over-the-counter ~~[drugs and medicines]~~ drug or medicine.
- 126 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
- 127 product when it is used as a flavoring in the manufacturing of an alcoholic product.
- 128 (4) "Bar" means a counter or similar structure:
- 129 (a) at which an alcoholic ~~[beverages are]~~ beverage is:
- 130 (i) stored; or
- 131 (ii) dispensed; or
- 132 (b) from which an alcoholic ~~[beverages are]~~ beverage is served.
- 133 (5) (a) ~~["Beer"]~~ Subject to Subsection (5)(d), "beer" means [any] a product that:
- 134 (i) contains ~~[63/100 of 1%]~~ at least .5% of alcohol by volume ~~[or 1/2 of 1% of alcohol~~
- 135 ~~by weight]~~, but not more than 4% of alcohol by volume or 3.2% by weight; and
- 136 (ii) is obtained by fermentation, infusion, or decoction of ~~[any]~~ malted grain.
- 137 (b) Beer may or may not contain hops or other vegetable products.
- 138 (c) Beer includes a product that:
- 139 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 140 (ii) is referred to as:
- 141 ~~[(A) malt liquor;]~~
- 142 ~~[(B) malted beverages; or]~~
- 143 ~~[(C) malt coolers.]~~
- 144 (A) beer;
- 145 (B) ale;
- 146 (C) porter;
- 147 (D) stout;
- 148 (E) lager; or
- 149 (F) a malt or malted beverage.

150 (d) On or after October 1, 2008, "beer" does not include a flavored malt beverage.

151 (6) (a) "Beer retailer" means a business that is:

152 (i) engaged, primarily or incidentally, in the retail sale of beer to [~~patrons~~] a patron,
153 whether for consumption on or off the business premises; and

154 (ii) licensed to sell beer by:

155 (A) the commission;

156 (B) a local authority; or

157 (C) both the commission and a local authority.

158 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
159 beer to [~~patrons~~] a patron for consumption off the beer retailer's premises.

160 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.

161 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
162 [~~patrons~~] a patron for consumption on the beer retailer's premises, regardless of whether the
163 business sells beer for consumption off the beer retailer's premises.

164 (7) "Billboard" means [~~any~~] a public display used to advertise including:

165 (a) a light device;

166 (b) a painting;

167 (c) a drawing;

168 (d) a poster;

169 (e) a sign;

170 (f) a signboard; or

171 (g) a scoreboard.

172 (8) "Brewer" means [~~any~~] a person engaged in manufacturing:

173 (a) beer[-];

174 (b) heavy beer; or

175 (c) a flavored malt beverage.

176 (9) "Cash bar" means the service of an alcoholic [~~beverages~~] beverage:

177 (a) at:

178 (i) a banquet; or

179 (ii) a temporary event for which a permit is issued under this title; and

180 (b) if an attendee at the banquet or temporary event is charged for the alcoholic

181 beverage.

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

184 (a) under a single contract;

185 (b) at a fixed charge in accordance with the bus company's tariff; and

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

189 (11) "Church" means a building:

190 (a) set apart for the purpose of worship;

191 (b) in which religious services are held;

192 (c) with which clergy is associated; and

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

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

196 (a) a social club;

197 (b) a recreational association;

198 (c) a fraternal association;

199 (d) an athletic association; or

200 (e) a kindred association.

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

202 (14) "Community location" means:

203 (a) a public or private school;

204 (b) a church;

205 (c) a public library;

206 (d) a public playground; or

207 (e) a public park.

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

209 (a) the governing body of the community location; or

210 (b) a person who appears to the commission to have been given on behalf of the
211 community location authority to prohibit an activity at the community location.

212 ~~[(14)]~~ (16) "Department" means the Department of Alcoholic Beverage Control.

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

215 ~~[(15)]~~ (18) "Distressed merchandise" means ~~[any]~~ an alcoholic beverage in the
216 possession of the department that is saleable, but for some reason is unappealing to the public.

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

218 (a) that contains at least .5% alcohol by volume;

219 (b) that is treated by processing, filtration, or another method of manufacture that is not
220 generally recognized as a traditional process in the production of a beer as described in 27
221 C.F.R. Sec. 25.55;

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

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

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

227 ~~[(16)]~~ (20) "Guest" means a person accompanied by an active member or visitor of a
228 club who enjoys only those privileges derived from the host for the duration of the visit to the
229 club.

230 ~~[(17)]~~ (21) (a) "Heavy beer" means ~~[any]~~ a product that:

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

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

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

234 ~~[(18)]~~ (22) "Hosted bar" means the service of an alcoholic ~~[beverages]~~ beverage:

235 (a) without charge; and

236 (b) at a:

237 (i) banquet; or

238 (ii) privately hosted event.

239 ~~[(19)]~~ (23) "Identification card" means ~~[the]~~ an identification card issued under Title
240 53, Chapter 3, Part 8, Identification Card Act.

241 ~~[(20)]~~ (24) "Interdicted person" means a person to whom the sale, gift, or provision of
242 an alcoholic beverage is prohibited by:

243 (a) law; or

244 (b) court order.

245 [(21)] (25) "Intoxicated" means that to a degree that is unlawful under Section
246 76-9-701 a person is under the influence of:

247 (a) an alcoholic beverage;

248 (b) a controlled substance;

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

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

251 [(22)] (26) "Licensee" means [any] a person issued a license by the commission to sell,
252 manufacture, store, or allow consumption of an alcoholic beverage on premises
253 owned or controlled by the person.

254 [(23)] (27) "Limousine" means [any] a motor vehicle licensed by the state or a local
255 authority, other than a bus or taxicab:

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

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

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

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

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

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

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

271 [(25)] (29) "Local authority" means:

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

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

276 [~~(26)~~] (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,
277 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
278 others.

279 [~~(27)~~] (31) "Member" means a person who, after paying regular dues, has full
280 privileges of a club under this title.

281 [~~(28)~~] (32) (a) "Military installation" means a base, air field, camp, post, station, yard,
282 center, or homeport facility for [~~any~~] a ship:

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

284 (B) of the National Guard;

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

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

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

288 (i) civil works;

289 (ii) rivers and harbors projects; or

290 (iii) flood control projects.

291 [~~(29)~~] (33) "Minor" means [~~any person~~] an individual under the age of 21 years.

292 [~~(30)~~] (34) "Nude," "nudity," or "state of nudity" means:

293 (a) the appearance of:

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

295 (ii) a human genital;

296 (iii) a human pubic area; or

297 (iv) a human anus; or

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

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

300 (ii) a human genital;

301 (iii) a human pubic area; or

302 (iv) a human anus.

303 [~~(31)~~] (35) "Outlet" means a location other than a state store or package agency where
304 an alcoholic [~~beverages are~~] beverage is sold pursuant to a license issued by the commission.

305 [~~(32)~~] (36) "Package" means any of the following containing liquor:

306 (a) a container;

307 (b) a bottle;

308 (c) a vessel; or

309 (d) other receptacle.

310 [~~(33)~~] (37) "Package agency" means a retail liquor location operated:

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

312 (b) by a person:

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

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

316 [~~(34)~~] (38) "Package agent" means [~~any~~] a person permitted by the commission to
317 operate a package agency pursuant to a contractual agreement with the department to sell liquor
318 from premises that the package agent shall provide and maintain.

319 [~~(35)~~] (39) "Permittee" means [~~any~~] a person issued a permit by the commission to
320 perform [~~acts~~] an act or exercise [~~privileges~~] a privilege as specifically granted in the permit.

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

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

329 [~~(38)~~] (42) "Prescription" means a writing in legal form, signed by a physician or
330 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

331 [~~(39)~~] (43) (a) "Privately hosted event" or "private social function" means a specific
332 social, business, or recreational event:

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

335 (ii) that is limited in attendance to people who [~~have been~~] are specifically designated

336 and their guests.

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

339 [~~(40)~~] (44) "Proof of age" means:

340 (a) an identification card;

341 (b) an identification that:

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

343 (ii) is issued in accordance with the laws of a state other than Utah in which the

344 identification is issued;

345 (iii) includes date of birth; and

346 (iv) has a picture affixed;

347 (c) a valid driver license certificate that:

348 (i) includes date of birth;

349 (ii) has a picture affixed; and

350 (iii) is issued:

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

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

353 (d) a military identification card that:

354 (i) includes date of birth; and

355 (ii) has a picture affixed; or

356 (e) a valid passport.

357 [~~(41)~~] (45) (a) "Public building" means [~~any~~] a building or permanent structure owned
358 or leased by the state, a county, or local government entity that is used for:

359 (i) public education;

360 (ii) transacting public business; or

361 (iii) regularly conducting government activities.

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

365 [~~(42)~~] (46) "Representative" means an individual who is compensated by salary,
366 commission, or [~~any~~] other means for representing and selling [~~the~~] an alcoholic beverage

367 [~~products~~] product of a manufacturer, supplier, or importer of liquor[;] including:

368 (a) wine[~~, or~~];

369 (b) heavy beer; or

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

371 [~~(43)~~] (47) "Residence" means [~~the~~] a person's principal place of abode within Utah.

372 [~~(44)~~] (48) "Restaurant" means [~~any~~] a business establishment:

373 (a) where a variety of foods is prepared and complete meals are served to the general

374 public;

375 (b) located on a premises having adequate culinary fixtures for food preparation and

376 dining accommodations; and

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

378 [~~(45)~~] (49) "Retailer" means [~~any~~] a person engaged in the sale or distribution of an

379 alcoholic [~~beverages~~] beverage to [~~the~~] a consumer.

380 [~~(46)~~] (50) (a) "Sample" includes:

381 (i) a department sample; and

382 (ii) an industry representative sample.

383 (b) "Department sample" means liquor[~~, wine, and heavy beer~~] that [~~has been~~] is placed

384 in the possession of the department for testing, analysis, and sampling including:

385 (i) wine;

386 (ii) heavy beer; or

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

388 (c) "Industry representative sample" means liquor[~~, wine, and heavy beer~~] that [~~has~~

389 ~~been~~] is placed in the possession of the department:

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

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

392 representative of the quality and characteristics of the product[;]; and

393 (ii) including:

394 (A) wine;

395 (B) heavy beer; or

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

397 [~~(47)~~] (51) (a) "School" means [~~any~~] a building used primarily for the general

398 education of minors.

399 (b) "School" does not include:

400 (i) a nursery school;

401 (ii) an infant day care center; or

402 (iii) a trade or technical school.

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

409 [~~(49)~~] (53) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
410 which opaque clothing covers no more than:

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

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

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

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

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

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

418 [~~(50)~~] (54) "Sexually oriented entertainer" means a person who while in a state of
419 seminudity appears at or performs:

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

421 (b) on the premises of:

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

423 (ii) a tavern;

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

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

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

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

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

- 429 (iii) an agent of the licensee described in Subsection [~~(50)~~] (54)(b); or
- 430 (iv) otherwise of the licensee described in Subsection [~~(50)~~] (54)(b).
- 431 [~~(51)~~] (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels
- 432 of beer [~~and~~], heavy beer, and flavored malt beverages per year.
- 433 [~~(52)~~] (56) (a) "Spirituous liquor" means liquor that is distilled.
- 434 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 435 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 436 [~~(53)~~] (57) (a) "State label" means the official label designated by the commission
- 437 affixed to [~~at~~] a liquor [~~containers~~] container sold in the state.
- 438 (b) "State label" includes the department identification mark and inventory control
- 439 number.
- 440 [~~(54)~~] (58) (a) "State store" means a facility for the sale of package liquor:
- 441 (i) located on premises owned or leased by the state; and
- 442 (ii) operated by one or more state employees.
- 443 (b) "State store" does not apply to [~~any~~] a:
- 444 (i) licensee;
- 445 (ii) permittee; or
- 446 (iii) package agency.
- 447 [~~(55)~~] (59) "Supplier" means [~~any~~] a person selling an alcoholic [~~beverages~~] beverage
- 448 to the department.
- 449 [~~(56)~~] (60) (a) "Tavern" means [~~any~~] a business establishment that is:
- 450 (i) engaged primarily in the retail sale of beer to a public [~~patrons~~] patron for
- 451 consumption on the establishment's premises; and
- 452 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 453 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 454 revenue of the sale of food, although food need not be sold in the establishment:
- 455 (i) a beer bar;
- 456 (ii) a parlor;
- 457 (iii) a lounge;
- 458 (iv) a cabaret; or
- 459 (v) a nightclub.

460 [~~(57)~~] (61) "Temporary domicile" means the principal place of abode within Utah of a
461 person who does not have a present intention to continue residency within Utah permanently or
462 indefinitely.

463 [~~(58)~~] (62) "Unsaleable liquor merchandise" means merchandise that:

464 (a) is unsaleable because the merchandise is:

465 (i) unlabeled;

466 (ii) leaky;

467 (iii) damaged;

468 (iv) difficult to open; or

469 (v) partly filled;

470 (b) is in a container:

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

472 (ii) in which the contents are:

473 (A) cloudy;

474 (B) spoiled; or

475 (C) chemically determined to be impure; or

476 (iii) that contains:

477 (A) sediment; or

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

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

480 [~~(59)~~] (63) "Visitor" means an individual that in accordance with Section 32A-5-107
481 holds limited privileges in a private club by virtue of a visitor card.

482 [~~(60)~~] (64) "Warehouser" means [~~any~~] a person, other than a licensed manufacturer,
483 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

484 [~~(61)~~] (65) (a) "Wholesaler" means [~~any~~] a person engaged in the importation for sale,
485 or in the sale of beer in wholesale or jobbing quantities to one or more retailers[~~,-other than a~~].

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

488 [~~(62)~~] (66) (a) "Wine" means [~~any~~] an alcoholic beverage obtained by the fermentation
489 of the natural sugar content of fruits, plants, honey, or milk, or [~~any~~] other like substance,
490 whether or not [~~other ingredients are~~] another ingredient is added.

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

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

494 **32A-1-116. Purchase of liquor.**

495 (1) The department may not purchase or stock spirituous liquor in [~~containers~~] a
496 container smaller than 200 milliliters except as otherwise allowed by the commission.

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

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

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

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

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

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

507 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

510 (i) against:

511 (A) a permittee;

512 (B) a licensee;

513 (C) a manufacturer;

514 (D) a supplier;

515 (E) an importer;

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

517 or

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

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

520 (II) a package agent; and

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

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

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

526 (i) the commission;

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

529 (iii) the director; and

530 (iv) the department.

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

534 (i) the commission;

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

536 (iii) the director; and

537 (iv) the department.

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

540 (i) video or audio recorded; and

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

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

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

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

552 (b) (i) Nothing in this section precludes the commission from appointing necessary

553 officers, including hearing examiners, from within or without the department, to administer the
554 disciplinary proceeding process.

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

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

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

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

560 (II) conclusions of law; and

561 (III) recommendations.

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

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

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

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

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

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

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

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

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

581 (i) if required by law;

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

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

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

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

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

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

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

597 (A) administer oaths or affirmations;

598 (B) take evidence;

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

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

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

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

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

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

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

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

615 (I) appear before the issuing party; and
616 (II) (Aa) produce documentary evidence if so ordered; or
617 (Bb) give evidence regarding the matter in question.
618 (C) Failure to obey an order of the court may be punished by the court as contempt.
619 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing
620 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.
621 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
622 recommend a penalty more severe than that initially sought by the department in the notice of
623 agency action.
624 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
625 shall be served upon the respective parties.
626 (iv) The respondent and the department shall be given reasonable opportunity to file
627 any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
628 before final commission action.
629 (h) In all cases heard by the commission, it shall issue its final decision and order in
630 accordance with Subsection (3).
631 (6) (a) The commission shall:
632 (i) render a final decision and order on any disciplinary action; and
633 (ii) cause its final order to be prepared in writing, issued, and served on all parties.
634 (b) ~~Any~~ An order of the commission is considered final on the date the order
635 becomes effective.
636 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
637 through (G) has committed a violation of this title or the commission's rules, in accordance
638 with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:
639 (i) suspend or revoke the permit, license, or certificate of approval;
640 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
641 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the
642 licensee, or certificate holder; or
643 (iv) any combination of Subsections (6)(c)(i) through (iii).
644 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
645 32A-1-107(1)(p) and (4).

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

648 (A) during the suspension;

649 (B) by the permittee or licensee; and

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

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

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

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

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

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

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

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

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

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

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

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

676 (ii) an officer, employee, agent, or representative of a person listed in Subsection

677 (8)(a)(i).

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

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

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

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

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

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

689 (I) directly committed the violation; or

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

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

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

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

700 (ii) imposition of a fine.

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

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

706 (ii) the alleged violation involves:

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

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

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

712 (D) interfering or refusing to cooperate with:

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

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

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

718 (F) unlawful importation of alcoholic products; or

719 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
720 32A-12-601(2), to any person other than the department or a military installation, except to the
721 extent permitted by this title; or

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

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

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

725 or

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

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

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

730 **32A-1-122. Liquor prices -- School lunch program.**

731 (1) For purposes of this section:

732 (a) "Landed case cost" means:

733 (i) the cost of the product; and

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

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

737 (2) (a) Except as provided in Subsections (2)(b) and (c), ~~all~~ spirituous liquor and
738 wine sold by the department within the state shall be marked up in an amount not less than

739 86% above the landed case cost to the department.

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

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

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

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

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

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

760 [~~(4)~~] (5) Ten percent of the total gross revenue from sales of [~~spirituous~~] spirituous
761 liquor, wine, [~~and~~] heavy beer, and flavored malt beverages shall be deposited by the
762 department with the state treasurer and credited to the Uniform School Fund to be used to
763 support the school lunch program administered by the State Board of Education under Section
764 53A-19-201.

765 [~~(5)~~] (6) Nothing in this section prohibits the department from selling discontinued
766 items at a discount.

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

768 **32A-1-302. Presentation of proof of age upon request.**

769 (1) To obtain one or more of the following, a person shall present proof of age at the

770 request of a person listed in Subsection (2):

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

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

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

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

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

779 (b) a peace officer;

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

782 (d) an authorized employee of the department.

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

784 **32A-1-304. Acceptance of identification -- Evidence.**

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

788 (a) proof of age; or

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

790 (i) proof of age; and

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

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

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

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

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

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

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

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

806 **32A-1-701. Title.**

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

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

809 **32A-1-702. Requirement for a criminal background check.**

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

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

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

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

815 (ii) the Federal Bureau of Investigation.

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

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

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

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

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

821 operate a package agency or for a license is:

822 (i) a partner;

823 (ii) a managing agent;

824 (iii) a manager;

825 (iv) an officer;

826 (v) a director;

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

828 corporation;

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

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

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

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

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

834 (ii) is licensed by the commission.

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

836 an entity's:

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

838 (b) renewal of a license.

839 (4) The department may require as a condition of continued employment that an

840 employee:

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

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

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

844 (ii) the Federal Bureau of Investigation.

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

846 **32A-1-703. Use of information from a criminal background check.**

847 The commission or department may use information obtained pursuant to Section

848 32A-1-702 only for one or more of the following purposes:

849 (1) enforcing this title;

850 (2) determining whether or not an individual is convicted of any of the following

851 offenses that disqualify the individual under this title from acting in a capacity described in

852 Subsection 32A-1-702(2):

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

854 (b) a violation of a federal law, state law, or local ordinance concerning the sale,

855 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic

856 beverage;

857 (c) a crime involving moral turpitude; or

858 (d) on two or more occasions within the previous five years, driving under the

859 influence of alcohol, a drug, or the combined influence of alcohol and a drug;

860 (3) determining whether or not an individual fails to accurately disclose the person's

861 criminal history on an application or document filed with the department or commission;

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

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

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

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

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

868 (9) granting or denying the renewal of a license;

869 (10) suspending the operation of a package agency;

870 (11) terminating a package agency contract; or

871 (12) suspending or revoking a license.

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

873 **32A-1-704. Criminal background check procedure.**

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

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

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

878 (ii) an employee of the department.

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

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

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

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

888 (ii) an employee of the department.

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

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

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

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

900 (ii) an employee of the department.

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

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

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

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

911 (A) review the criminal history record; and

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

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

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

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

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

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

921 (b) a criminal history record received from:

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

923 (ii) the Federal Bureau of Investigation.

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

Part 8. Malted Beverages Act

32A-1-801. Title.

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

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

32A-1-802. Definitions.

As used in this part:

(1) "Malted beverages means:

(a) beer;

(b) a flavored malt beverage; and

(c) heavy beer.

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

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

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

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

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

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

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

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

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

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

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

959 (a) a statement of process; or

960 (b) a formula.

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

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

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

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

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

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

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

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

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

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

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

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

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

987 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and
988 (ii) clearly gives notice to the public that the malted beverage is an alcoholic beverage;
989 and

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

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

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

996 (a) beer;

997 (b) ale;

998 (c) porter;

999 (d) stout;

1000 (e) lager;

1001 (f) lager beer; or

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

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

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

1006 (1) To obtain approval of the label and packaging of a malted beverage, the
1007 manufacturer of the malted beverage shall submit an application to the department for
1008 approval.

1009 (2) The application described in Subsection (1) shall be on a form approved by the
1010 department and include the following:

1011 (a) a copy of a federal certificate of label approval from the Department of Treasury,
1012 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking
1013 approval;

1014 (b) a complete set of original labels for each size of container of the malted beverage;

1015 (c) a description of the size of the container on which a label will be placed;

1016 (d) a description of each type of container of the malted beverage; and

1017 (e) a description of any packaging for the malted beverage.

1018 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1019 approval.

1020 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1021 which the manufacturer submits an application whether the label and packaging is approved or
1022 denied.

1023 (b) If the department determines that an unusual circumstance requires additional time,
1024 the department may extend the time period described in Subsection (4)(a).

1025 (5) A manufacturer shall obtain the approval of the department of a revision of a
1026 previously approved label and packaging before a malted beverage using the revised label and
1027 packaging may be distributed or sold in this state.

1028 (6) (a) The department may revoke a label and packaging previously approved upon a
1029 finding that the label and packaging is not in compliance with this title or rules of the
1030 commission.

1031 (b) The department shall notify the person that applies for the approval of a label and
1032 packaging at least five business days before the day on which a label and packaging approval is
1033 considered revoked.

1034 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1035 argument or evidence to the department on why the revocation should not occur.

1036 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1037 denial or revocation of a label and packaging approval to the commission.

1038 Section 16. Section **32A-1-806** is enacted to read:

1039 **32A-1-806. Special procedure for flavored malted beverages.**

1040 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a
1041 label or package used for a nonalcoholic beverage, beginning October 1, 2008, a manufacturer
1042 of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state
1043 until the day on which the manufacturer receives approval of the labeling and packaging from
1044 the department in accordance with:

1045 (a) Sections 32A-1-804 and 32A-1-805; and

1046 (b) this section.

1047 (2) The department may not approve the labeling and packaging of a flavored malt
1048 beverage described in Subsection (1) unless in addition to the requirements of Section

1049 32A-1-804 the labeling and packaging complies with the following:

1050 (a) The label on the flavored malt beverage shall bear a prominently displayed label or
1051 a firmly affixed sticker that provides the following information:

1052 (i) the statement:

1053 (A) "alcoholic beverage"; or

1054 (B) "contains alcohol"; and

1055 (ii) the alcohol content of the flavored malt beverage.

1056 (b) Any packaging of the flavored malt beverage shall prominently include, either
1057 imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the
1058 statement:

1059 (i) "alcoholic beverage"; or

1060 (ii) "contains alcohol".

1061 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required
1062 by rule made by the commission in accordance with Title 63, Chapter 46a, Utah Administrative
1063 Rulemaking Act.

1064 (d) A statement of alcohol content required by Subsection (2)(a)(ii):

1065 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;

1066 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"
1067 or "weight"; and

1068 (iii) shall be in a format required by rule made by the commission;

1069 (3) The department may reject a label or packaging that appears designed to obscure
1070 the information required by Subsection (2).

1071 (4) To determine whether or not a flavored malt beverage is described in Subsection
1072 (1) and subject to this section, the department may consider in addition to other factors one or
1073 more of the following factors:

1074 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:

1075 (i) is similar to those of a nonalcoholic beverage or product; or

1076 (ii) can be confused with a nonalcoholic beverage;

1077 (b) whether the flavored malt beverage possesses a character and flavor distinctive
1078 from a traditional malted beverage;

1079 (c) whether the flavored malt beverage is:

- 1080 (i) prepackaged;
- 1081 (ii) contains high levels of caffeine and other additives; and
- 1082 (iii) is marketed as a beverage that is specifically designed to provide energy;
- 1083 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;

1084 or

- 1085 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor
- 1086 that masks the taste of a traditional malted beverage.

1087 Section 17. Section **32A-1-807** is enacted to read:

1088 **32A-1-807. Rulemaking authority.**

1089 The commission may adopt rules necessary to implement this part.

1090 Section 18. Section **32A-1-808** is enacted to read:

1091 **32A-1-808. Disciplinary proceeding for violation.**

1092 A person who violates this part is subject to a disciplinary proceeding under Section

1093 32A-1-119.

1094 Section 19. Section **32A-1-809** is enacted to read:

1095 **32A-1-809. Transition protections.**

1096 (1) Except as provided in Subsection (3), a manufacturer of a flavored malt beverage

1097 may not be held liable under this title for distributing or selling a flavored malt beverage as a

1098 beer if:

1099 (a) the flavored malt beverage is distributed or sold on or before September 30, 2008;

1100 and

1101 (b) the manufacturer when distributing or selling the flavored malt beverage complies

1102 with the requirements of this title for distributing or selling a beer including holding:

1103 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

1104 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

1105 (2) Except as provided in Subsection (3), a licensee or permittee may not be held liable

1106 for the sale, offering, or furnishing of a flavored malt beverage as a beer if:

1107 (a) the flavored malt beverage is sold, offered, or furnished on or before September 30,

1108 2008; and

1109 (b) the licensee or permittee when selling, offering, or furnishing the flavored malt

1110 beverage complies with the requirements of this title for selling, offering, or furnishing a beer

1111 under the license or permit held by the licensee or permittee.

1112 (3) This section does not apply to liability under Chapter 14a, Alcoholic Beverage

1113 Liability.

1114 Section 20. Section **32A-2-101** is amended to read:

1115 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1116 (1) (a) The commission may establish state stores in numbers and at places, owned or
1117 leased by the department, [it] the commission considers proper for the sale of liquor, by
1118 employees of the state, in accordance with this title and the rules made under this title.

1119 (b) [~~Employees of state stores are~~] An employee of a state store is considered
1120 [~~employees~~] an employee of the department and shall meet all qualification requirements for
1121 employment [~~outlined~~] in Section 32A-1-111.

1122 (2) (a) The total number of state stores may not at any time aggregate more than that
1123 number determined by dividing the population of the state by 48,000.

1124 (b) For purposes of this Subsection (2), population shall be determined by:

1125 (i) the most recent United States decennial or special census; or

1126 (ii) [~~any other~~] another population determination made by the United States or state
1127 governments.

1128 (3) (a) [~~A~~] Except as provided in Subsection (3)(b), a state store may not be
1129 established;

1130 (i) within 600 feet of [~~any public or private school, church, public library, public~~
1131 ~~playground, or park~~] a community location, as measured by the method in Subsection [~~(4):~~]
1132 (3)(c); or

1133 [~~(b) A state store may not be established~~]

1134 (ii) within 200 feet of [~~any public or private school, church, public library, public~~
1135 ~~playground, or park~~] a community location, measured in a straight line from the nearest
1136 entrance of the proposed state store to the nearest property boundary of the [~~public or private~~
1137 ~~school, church, public library, public playground, or park~~] community location.

1138 [~~(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
1139 ~~following exceptions applies:~~]

1140 [~~(i) with~~] (b) With respect to the establishment of a state store [~~within a city of the~~
1141 ~~third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the commission

1142 may authorize a variance that reduces the proximity [~~requirements~~] requirement of Subsection
1143 (3)(a)(i) [~~or (b)~~] if:

1144 [~~(A)~~] (i) the commission finds that alternative locations for establishing a state store in
1145 the community are limited;

1146 [~~(B)~~] (ii) a public hearing [~~has been~~] is held in the city, town, or county, and where
1147 practical in the neighborhood concerned; [~~and~~]

1148 [~~(C)~~] (iii) after giving full consideration to all of the attending circumstances and the
1149 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1150 establishing the state store would not be detrimental to the public health, peace, safety, and
1151 welfare of the community; [~~or~~] and

1152 [(ii) with respect to the establishment of a state store in any location, the commission
1153 may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in
1154 relation to a church:]

1155 [~~(A) if the local governing body of the church in question gives its written consent to~~
1156 ~~the variance;]~~

1157 [~~(B) following a public hearing in the county, and where practical in the neighborhood~~
1158 ~~concerned; and]~~

1159 [~~(C) after giving full consideration to all of the attending circumstances and the~~
1160 ~~policies stated in Subsections 32A-1-104(3) and (4).]~~

1161 [~~(4) With respect to any public or private school, church, public library, public~~
1162 ~~playground, or park, the]~~

1163 (iv) (A) the community location governing authority gives its written consent to the
1164 variance; or

1165 (B) when written consent is not given by the community location governing authority,
1166 the commission finds that:

1167 (I) there is substantial unmet public demand to consume alcohol within the geographic
1168 boundary of the local authority in which the state store is to be located;

1169 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1170 described in Subsection (3)(b)(iv)(B)(I) other than through the establishment of a state store;
1171 and

1172 (III) there is no reasonably viable alternative location within the geographic boundary

1173 of the local authority in which the state store is to be located for establishing a state store to
1174 satisfy the unmet demand described in Subsection (3)(b)(iv)(B)(I).

1175 (c) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1176 nearest entrance of the state store by following the shortest route of ordinary pedestrian travel
1177 to the property boundary of the [~~public or private school, church, public library, public~~
1178 playground, school playground, or park] community location.

1179 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the
1180 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1181 reaching a decision on a proposed location.

1182 (b) For purposes of this Subsection [~~(5)~~] (4), "educational facility" includes:

1183 (i) a nursery school;

1184 (ii) an infant day care center; and

1185 (iii) a trade and technical school.

1186 Section 21. Section **32A-3-101** is amended to read:

1187 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1188 (1) (a) The commission may, when [~~considered~~] it considers necessary, create a
1189 package [~~agencies~~] agency by entering into a contractual [~~relationships with persons~~]
1190 relationship with a person to sell liquor in sealed packages from premises other than those
1191 owned or leased by the state.

1192 (b) The commission shall authorize a person to operate a package agency by issuing a
1193 certificate from the commission that designates the person in charge of the agency as a
1194 "package agent" as defined under Section 32A-1-105.

1195 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at
1196 any time aggregate more than that number determined by dividing the population of the state
1197 by 18,000.

1198 (b) For purposes of Subsection (2)(a), population shall be determined by:

1199 (i) the most recent United States decennial or special census; or

1200 (ii) [~~any other~~] another population determination made by the United States or state
1201 governments.

1202 (c) (i) The commission may establish seasonal package agencies established in areas
1203 the commission considers necessary.

- 1204 (ii) A seasonal package agency shall be for a period of six consecutive months.
- 1205 (iii) A package agency established for operation during a summer time period is known
- 1206 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency shall:
- 1207 (A) begin on May 1; and
- 1208 (B) end on October 31.
- 1209 (iv) A package agency established for operation during a winter time period is known as
- 1210 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency shall:
- 1211 (A) begin on November 1; and
- 1212 (B) end on April 30.
- 1213 (v) In determining the number of package agencies that the commission may establish
- 1214 under this section:
- 1215 (A) a seasonal package agency is counted as 1/2 of one package agency; and
- 1216 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency.
- 1217 (d) (i) If the location, design, and construction of a hotel may require more than one
- 1218 package agency sales location to serve the public convenience, the commission may authorize a
- 1219 single package agent to sell liquor at as many as three locations within the hotel under one
- 1220 package agency if:
- 1221 (A) the hotel has a minimum of 150 guest rooms; and
- 1222 (B) all locations under the agency are:
- 1223 (I) within the same hotel facility; and
- 1224 (II) on premises that are managed or operated and owned or leased by the package
- 1225 agent.
- 1226 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one sales
- 1227 location under a single package agency.
- 1228 (3) (a) ~~[As measured by the method in Subsection (4), the]~~ Except as provided in
- 1229 Subsection (3)(b) or (c), the premises of a package agency may not be established:
- 1230 (i) within 600 feet of [any public or private school, church, public library, public
- 1231 playground, or park.] a community location, as measured by the method described in
- 1232 Subsection (3)(d); or
- 1233 ~~[(b) The premises of a package agency may not be established]~~
- 1234 (ii) within 200 feet of [any public or private school, church, public library, public

1235 ~~playground, or park] a community location, measured in a straight line from the nearest~~
1236 ~~entrance of the proposed package agency to the nearest property boundary of the [public or~~
1237 ~~private school, church, public library, public playground, or park] community location.~~

1238 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
1239 ~~following exemptions applies:]~~

1240 ~~[(i) with] (b) With respect to the establishment of a package agency [~~within a city of~~~~
1241 ~~the third, fourth, or fifth class, a town, or the unincorporated area of a county], the commission~~
1242 ~~may authorize a variance to reduce the proximity [requirements] requirement of Subsection~~
1243 ~~(3)(a)(i) [or (b)] if:~~

1244 ~~[(A)] (i) the local governing authority [~~has granted~~] grants its written consent to the~~
1245 ~~variance;~~

1246 ~~[(B)] (ii) the commission finds that alternative locations for establishing a package~~
1247 ~~agency in the community are limited;~~

1248 ~~[(C)] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where~~
1249 ~~practical in the neighborhood concerned; [~~and~~]~~

1250 ~~[(D)] (iv) after giving full consideration to all of the attending circumstances and the~~
1251 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
1252 ~~establishing the package agency would not be detrimental to the public health, peace, safety,~~
1253 ~~and welfare of the community; and~~

1254 ~~[(ii) with respect to the establishment of a package agency in any location, the~~
1255 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~
1256 ~~(3)(a) or (b) in relation to a church:]~~

1257 ~~[(A) if the local governing body of the church in question gives its written consent to~~
1258 ~~the variance;]~~

1259 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~
1260 ~~neighborhood concerned; and]~~

1261 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
1262 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

1263 ~~(v) (A) the community location governing authority gives its written consent to the~~
1264 ~~variance; or~~

1265 ~~(B) when written consent is not given by the community location governing authority,~~

1266 the commission finds that the applicant has established that:

1267 (I) there is substantial unmet public demand to consume alcohol within the geographic
1268 boundary of the local authority in which the package agency is to be located;

1269 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1270 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a package
1271 agency; and

1272 (III) there is no reasonably viable alternative location within the geographic boundary
1273 of the local authority in which the package agency is to be located for establishing a package
1274 agency to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).

1275 ~~[(iii) with]~~ (c) With respect to the premises of a package agency issued by the
1276 commission that undergoes a change of ownership, the commission may waive or vary the
1277 proximity requirements of Subsection (3)(a) ~~[or (b)]~~ in considering whether to grant a package
1278 agency to the new owner of the premises if:

1279 (i) (A) the premises previously received a variance reducing the proximity
1280 ~~[requirements]~~ requirement of Subsection (3)(a)(i) ~~[or (b)]~~; or

1281 (B) the premises received a variance reducing the proximity requirement of Subsection
1282 (3)(a)(ii) on or before May 4, 2008; or

1283 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
1284 under this title.

1285 ~~[(4) With respect to any public or private school, church, public library, public~~
1286 ~~playground, or park, the]~~

1287 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1288 nearest entrance of the package agency by following the shortest route of ordinary pedestrian
1289 travel to the property boundary of the ~~[public or private school, church, public library, public~~
1290 ~~playground, school playground, or park]~~ community location.

1291 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the
1292 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1293 reaching a decision on a proposed location.

1294 (b) For purposes of Subsection ~~[(5)]~~ (4)(a), "educational facility" includes:

1295 (i) a nursery school;

1296 (ii) an infant day care center; and

1297 (iii) a trade and technical school.

1298 [(6)] (5) (a) The package agent, under the direction of the department, [shall be] is
1299 responsible for implementing and enforcing this title and the rules adopted under this title to
1300 the extent they relate to the conduct of the package agency and its sale of liquor.

1301 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1302 entitled to any benefits of employment from the state.

1303 (c) A package agent, when selling liquor from a package agency, is considered an agent
1304 of the state only to the extent specifically expressed in the package agency agreement.

1305 [(7)] (6) The commission may prescribe by policy, directive, or rule, consistent with
1306 this title, general operational requirements of all package agencies relating to:

1307 (a) physical facilities;

1308 (b) conditions of operation;

1309 (c) hours of operation;

1310 (d) inventory levels;

1311 (e) payment schedules;

1312 (f) methods of payment;

1313 (g) premises security; and

1314 (h) any other matters considered appropriate by the commission.

1315 Section 22. Section **32A-3-102** is amended to read:

1316 **32A-3-102. Application requirements.**

1317 (1) A person seeking to operate a package agency as a package agent under this chapter
1318 shall file a written application with the department in a form prescribed by the department.

1319 (2) The application shall be accompanied by:

1320 (a) a nonrefundable application fee of \$100;

1321 (b) written consent of the local authority;

1322 (c) evidence of proximity to any [~~public or private school, church, public library,~~
1323 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
1324 ~~Subsections 32A-3-101(3) and (4), the application shall be processed in accordance with those~~
1325 ~~subsections]~~ community location, with proximity requirements being governed by Section
1326 32A-3-101;

1327 (d) a bond as specified by Section 32A-3-105;

1328 (e) a floor plan of the premises, including a description and highlighting of that part of
1329 the premises in which the applicant proposes that the package agency be established;

1330 (f) evidence that the package agency is carrying public liability insurance in an amount
1331 and form satisfactory to the department;

1332 (g) a signed consent form stating that the package agent will permit any authorized
1333 representative of the commission, department, or any law enforcement officer to have
1334 unrestricted right to enter the package agency;

1335 (h) in the case of an applicant that is a partnership, corporation, or limited liability
1336 company, proper verification evidencing that the person or persons signing the package agency
1337 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1338 company; and

1339 (i) any other information as the commission or department may direct.

1340 Section 23. Section **32A-4-101** is amended to read:

1341 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1342 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it
1343 shall first obtain a license from the commission as provided in this part.

1344 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
1345 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
1346 consumption of liquor on premises operated as public restaurants.

1347 (3) (a) Subject to the other provisions of this Subsection (3), the total number of
1348 restaurant liquor licenses may not at any time aggregate more than that number determined by
1349 dividing the population of the state by 5,200.

1350 (b) For purposes of this Subsection (3), population shall be determined by:

1351 (i) the most recent United States decennial or special census; or

1352 (ii) [~~any other~~] another population determination made by the United States or state
1353 governments.

1354 (c) (i) The commission may issue seasonal restaurant liquor licenses established in
1355 areas the commission considers necessary.

1356 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1357 (iii) A restaurant liquor license issued for operation during a summer time period is
1358 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"

1359 restaurant liquor license shall:

1360 (A) begin on May 1; and

1361 (B) end on October 31.

1362 (iv) A restaurant liquor license issued for operation during a winter time period is

1363 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"

1364 restaurant liquor license shall:

1365 (A) begin on November 1; and

1366 (B) end on April 30.

1367 (v) In determining the number of restaurant liquor licenses that the commission may

1368 issue under this section:

1369 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and

1370 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1371 (d) (i) If the location, design, and construction of a hotel may require more than one

1372 restaurant liquor sales location within the hotel to serve the public convenience, the

1373 commission may authorize the sale of liquor at as many as three restaurant locations within the

1374 hotel under one license if:

1375 (A) the hotel has a minimum of 150 guest rooms; and

1376 (B) all locations under the license are:

1377 (I) within the same hotel facility; and

1378 (II) on premises that are managed or operated and owned or leased by the licensee.

1379 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate restaurant

1380 liquor license for each restaurant where liquor is sold.

1381 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a

1382 restaurant liquor license may not be established;

1383 (i) within 600 feet of ~~[any public or private school, church, public library, public~~

1384 ~~playground, or park,]~~ a community location, as measured by the method in Subsection ~~[(5):]~~

1385 ~~(4)(d):~~

1386 ~~[(b) The premises of a restaurant liquor license may not be established]~~

1387 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~

1388 ~~playground, or park]~~ a community location, measured in a straight line from the nearest

1389 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~

1390 school, church, public library, public playground, or park] community location.

1391 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
1392 ~~following exemptions applies:]~~

1393 ~~[(i) with] (b) With~~ respect to the establishment of a restaurant liquor license ~~[in any~~
1394 ~~location],~~ the commission may authorize a variance to reduce the proximity ~~[requirements]~~
1395 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

1396 ~~[(A)] (i)~~ the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the
1397 variance;

1398 ~~[(B)] (ii)~~ the commission finds that alternative locations for establishing a restaurant
1399 liquor license in the community are limited;

1400 ~~[(C)] (iii)~~ a public hearing ~~[has been]~~ is held in the city, town, or county, and where
1401 practical in the neighborhood concerned; ~~[and]~~

1402 ~~[(D)] (iv)~~ after giving full consideration to all of the attending circumstances and the
1403 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1404 establishing the restaurant liquor license would not be detrimental to the public health, peace,
1405 safety, and welfare of the community; ~~[or]~~ and

1406 (v) (A) the community location governing authority gives its written consent to the
1407 variance; or

1408 (B) when written consent is not given by the community location governing authority,
1409 the commission finds that the applicant has established that:

1410 (I) there is substantial unmet public demand to consume alcohol in a public setting
1411 within the geographic boundary of the local authority in which the restaurant is to be located;

1412 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1413 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant
1414 liquor license; and

1415 (III) there is no reasonably viable alternative location within the geographic boundary
1416 of the local authority in which the restaurant is to be located for establishing a restaurant liquor
1417 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1418 ~~[(ii) with] (c) With~~ respect to the premises of a restaurant liquor license issued by the
1419 commission that undergoes a change of ownership, the commission may waive or vary the
1420 proximity requirements of Subsection (4)(a) ~~[or (b)]~~ in considering whether to grant a

1421 restaurant liquor license to the new owner of the premises if:

1422 (i) (A) the premises previously received a variance reducing the proximity

1423 [~~requirements~~] requirement of Subsection (4)(a)(i) [~~or (b)~~]; or

1424 (B) the premises received a variance reducing the proximity requirement of Subsection

1425 (4)(a)(ii) on or before May 4, 2008; or

1426 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed

1427 under this title.

1428 [~~(5) With respect to any public or private school, church, public library, public~~

1429 ~~playground, or park, the]~~

1430 (d) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the

1431 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the

1432 [~~property boundary of the public or private school, church, public library, public playground,~~

1433 ~~school playground, or park]~~ community location.

1434 [~~(6)~~] (5) (a) Nothing in this section prevents the commission from considering the

1435 proximity of any educational, religious, and recreational facility, or any other relevant factor in

1436 reaching a decision on a proposed location.

1437 (b) For purposes of this Subsection [~~(6)~~] (5), "educational facility" includes:

1438 (i) a nursery school;

1439 (ii) an infant day care center; and

1440 (iii) a trade and technical school.

1441 Section 24. Section **32A-4-102** is amended to read:

1442 **32A-4-102. Application and renewal requirements.**

1443 (1) A person seeking a restaurant liquor license under this part shall file a written

1444 application with the department, in a form prescribed by the department. It shall be

1445 accompanied by:

1446 (a) a nonrefundable \$250 application fee;

1447 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1448 (c) written consent of the local authority;

1449 (d) a copy of the applicant's current business license;

1450 (e) evidence of proximity to any [~~public or private school, church, public library,~~

1451 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~

1452 Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those
1453 subsections] community location, with proximity requirements being governed by Section
1454 32A-4-101;

1455 (f) a bond as specified by Section 32A-4-105;

1456 (g) a floor plan of the restaurant, including consumption areas and the area where the
1457 applicant proposes to keep, store, and sell liquor;

1458 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1459 form satisfactory to the department;

1460 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1461 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1462 (j) a signed consent form stating that the restaurant will permit any authorized
1463 representative of the commission, department, or any law enforcement officer unrestricted right
1464 to enter the restaurant;

1465 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1466 company, proper verification evidencing that the person or persons signing the restaurant
1467 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1468 company; and

1469 (l) any other information the commission or department may require.

1470 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1471 (b) [~~Persons~~] A person desiring to renew [~~their~~] the person's restaurant liquor license
1472 shall by no later than September 30 submit:

1473 (i) a completed renewal application to the department; and

1474 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1475 under \$5,000	\$750
1476 equals or exceeds \$5,000 but less than \$10,000	\$900
1477 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1478 equals or exceeds \$25,000	\$1,500

1480 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1481 the license effective on the date the existing license expires.

1482 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by

1483 the department.

1484 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may
1485 suspend or revoke ~~[any]~~ a restaurant liquor license if the restaurant liquor licensee does not
1486 immediately notify the department of any change in:

1487 (a) ownership of the restaurant;

1488 (b) for a corporate owner, the:

1489 (i) corporate officers or directors; or

1490 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1491 corporation; or

1492 (c) for a limited liability company:

1493 (i) managers; or

1494 (ii) members owning at least 20% of the limited liability company.

1495 Section 25. Section **32A-4-104** is amended to read:

1496 **32A-4-104. Commission and department duties before granting licenses.**

1497 (1) (a) Before a restaurant liquor license may be granted by the commission, the
1498 department shall conduct an investigation and may hold public hearings for the purpose of
1499 gathering information and making recommendations to the commission as to whether or not a
1500 license should be granted. ~~[This]~~

1501 (b) The department shall forward the information ~~[shall be forwarded]~~ and
1502 recommendations described in Subsection (1)(a) to the commission to aid in ~~[its]~~ the
1503 commission's determination.

1504 (2) Before issuing ~~[any]~~ a restaurant liquor license, the commission shall:

1505 (a) determine that:

1506 (i) the applicant has complied with all basic qualifications and requirements for making
1507 application for a license as provided by Sections 32A-4-102 and 32A-4-103~~;~~; and ~~[that]~~

1508 (ii) the application is complete;

1509 (b) consider the locality within which the proposed restaurant liquor outlet is located,
1510 including ~~[but not limited to]~~:

1511 (i) physical characteristics such as:

1512 (A) condition of the premises~~;~~;

1513 (B) square footage~~;~~; and

- 1514 (C) parking availability; and
- 1515 (ii) operational factors such as:
- 1516 (A) tourist traffic[;];
- 1517 (B) proximity to and density of other state stores, package agencies, and outlets[;];
- 1518 (C) demographics[;];
- 1519 (D) population to be served[;]; and
- 1520 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 1521 ~~playground, or park~~] community location;
- 1522 (c) consider the applicant's ability to manage and operate a restaurant liquor license,
- 1523 including [~~but not limited to~~];
- 1524 (i) management experience[;];
- 1525 (ii) past retail liquor experience[;]; and
- 1526 (iii) the type of management scheme employed by the restaurant;
- 1527 (d) consider the nature or type of restaurant operation of the proposed liquor licensee,
- 1528 including [~~but not limited to~~];
- 1529 (i) the type of menu items offered and emphasized[;];
- 1530 (ii) whether the restaurant emphasizes service to an adult clientele or to minors[;];
- 1531 (iii) the hours of operation[;];
- 1532 (iv) the seating capacity of the facility[;]; and
- 1533 (v) the gross sales of food items; and
- 1534 (e) consider any other factors or circumstances [~~it~~] the commission considers
- 1535 necessary.

1536 Section 26. Section **32A-4-106** is amended to read:

1537 **32A-4-106. Operational restrictions.**

1538 [~~Each~~] A person granted a restaurant liquor license and the employees and management
1539 personnel of the restaurant shall comply with the following conditions and requirements.
1540 Failure to comply may result in a suspension or revocation of the restaurant liquor license or
1541 other disciplinary action taken against individual employees or management personnel.

1542 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
1543 [~~stores~~] store or package [~~agencies~~] agency.

1544 (b) Liquor purchased from a state store or package agency may be transported by the

1545 restaurant liquor licensee from the place of purchase to the licensed premises.

1546 (c) Payment for liquor shall be made in accordance with rules established by the
1547 commission.

1548 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1549 a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1550 dispensing system approved by the department in accordance with commission rules adopted
1551 under this title, except that:

1552 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1553 system if used as a secondary flavoring ingredient in a beverage subject to the following
1554 restrictions:

1555 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1556 a primary spirituous liquor;

1557 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1558 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1559 on the floor plan provided to the department; and

1560 (iv) ~~an~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled
1561 "flavorings";

1562 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1563 system if used:

1564 (i) as a flavoring on ~~[desserts]~~ a dessert; and

1565 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
1566 dessert;

1567 (c) ~~each~~ a restaurant patron may have no more than 2.75 ounces of spirituous liquor
1568 at a time; and

1569 (d) ~~each~~ a restaurant patron may have no more than one spirituous liquor drink at a
1570 time before the patron.

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

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

1575 (iii) An individual portion of wine is considered to be one alcoholic beverage under

1576 Subsection (7)(e).

1577 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
1578 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

1579 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
1580 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1581 persons.

1582 (c) A wine service may be performed and a service charge assessed by [~~the~~] a
1583 restaurant liquor licensee as authorized by commission rule for wine purchased at the
1584 restaurant.

1585 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
1586 one liter at [~~prices~~] a price fixed by the commission.

1587 (b) A flavored malt beverage may be served in an original container not exceeding one
1588 liter at a price fixed by the commission.

1589 [~~(b)~~] (c) A service charge may be assessed by [~~the~~] a restaurant liquor licensee as
1590 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1591 restaurant.

1592 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant [~~licensed to sell~~] liquor licensee
1593 may sell beer for on-premise consumption:

1594 (A) in an open container; and

1595 (B) on draft.

1596 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1597 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1598 container that exceeds one liter.

1599 (b) A restaurant [~~licensed under this chapter~~] liquor licensee that sells beer pursuant to
1600 Subsection (5)(a):

1601 (i) may do so without obtaining a separate on-premise beer retailer license from the
1602 commission; and

1603 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1604 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
1605 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1606 part.

1607 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1608 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1609 restaurant's:

1610 (i) state liquor license; and

1611 (ii) alcoholic beverage license issued by the local authority.

1612 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1613 [~~any~~] a place other than as designated in the restaurant liquor licensee's application, unless the
1614 restaurant liquor licensee first applies for and receives approval from the department for a
1615 change of location within the restaurant.

1616 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the
1617 restaurant from and be served by a person employed, designated, and trained by the restaurant
1618 liquor licensee to sell and serve an alcoholic [~~beverages~~] beverage.

1619 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
1620 bottled wine from an employee of the restaurant or [~~has carried~~] carries bottled wine onto the
1621 premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the
1622 bottle to the patron or others at the patron's table.

1623 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
1624 patron.

1625 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

1626 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
1627 a patron at a bar.

1628 (e) [~~Each~~] A restaurant patron may have no more than two alcoholic beverages of any
1629 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1630 (8) The liquor storage area shall remain locked at all times other than those hours and
1631 days when liquor sales are authorized by law.

1632 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1633 restaurant of a restaurant liquor licensee during the following days or hours:

1634 (i) until after the polls are closed on the day of [~~any~~] a:

1635 (A) regular general election;

1636 (B) regular primary election; or

1637 (C) statewide special election;

1638 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
1639 service district, or school election, but only:

1640 (A) within the boundaries of the municipality, local district, special service district, or
1641 school district; and

1642 (B) if required by local ordinance; and

1643 (iii) on any other day after 12 midnight and before 12 noon.

1644 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1645 Licenses, for on-premise beer licensees.

1646 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
1647 connection with an order for food prepared, sold, and served at the restaurant.

1648 (11) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
1649 otherwise furnished to ~~[any]~~ a:

1650 (a) minor;

1651 (b) person actually, apparently, or obviously intoxicated;

1652 (c) known habitual drunkard; or

1653 (d) known interdicted person.

1654 (12) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

1655 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

1656 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1657 beverage to the restaurant liquor licensee.

1658 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1659 over consumption or intoxication.

1660 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1661 hours of ~~[the restaurant's]~~ a restaurant liquor licensee's business day such as a "happy hour."

1662 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
1663 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

1664 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
1665 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

1666 (g) A restaurant liquor licensee may not engage in a public promotion involving or
1667 offering free an alcoholic ~~[beverages]~~ beverage to the general public.

1668 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of

1669 a restaurant by:

1670 (a) the restaurant liquor licensee; or

1671 (b) [~~any~~] an employee or agent of the restaurant liquor licensee.

1672 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee [~~any~~]
1673 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1674 discretion of the restaurant liquor licensee, bottled wine onto the premises of [~~any~~] a restaurant
1675 liquor licensee for on-premise consumption.

1676 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or [~~its~~
1677 ~~officers, managers, employees, or agents~~] an officer, manager, employee, or agent of the
1678 restaurant liquor licensee may not allow:

1679 (i) a person to bring onto the restaurant premises [~~any~~] an alcoholic beverage for
1680 on-premise consumption; or

1681 (ii) consumption of [~~any such~~] an alcoholic beverage [~~on its~~] described in this
1682 Subsection (14) on the restaurant liquor licensee's premises.

1683 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1684 or other representative of the restaurant liquor licensee upon entering the restaurant.

1685 (d) A wine service may be performed and a service charge assessed by [~~the~~] a
1686 restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

1687 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee [~~and its~~
1688 ~~employees~~] or an employee of the restaurant liquor licensee may not permit a restaurant patron
1689 to carry from the restaurant premises an open container that:

1690 (i) is used primarily for drinking purposes; and

1691 (ii) contains [~~any~~] an alcoholic beverage.

1692 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1693 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1694 onto the premises of the restaurant in accordance with Subsection (14), [~~provided~~] only if the
1695 bottle [~~has been~~] is recorked or recapped before removal.

1696 (16) (a) A restaurant liquor licensee may not employ a minor [~~may not be employed by~~
1697 ~~a restaurant licensee~~] to sell or dispense an alcoholic [~~beverages~~] beverage.

1698 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1699 employed to enter the sale at a cash register or other sales recording device.

- 1700 (17) An employee of a restaurant liquor licensee, while on duty, may not:
- 1701 (a) consume an alcoholic beverage; or
- 1702 (b) be intoxicated.
- 1703 (18) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption
- 1704 of liquor may be stated in food or alcoholic beverage menus including:
- 1705 (a) a set-up charge;
- 1706 (b) a service charge; or
- 1707 (c) a chilling fee.
- 1708 (19) [~~Each~~] A restaurant liquor licensee shall display in a prominent place in the
- 1709 restaurant:
- 1710 (a) the liquor license that is issued by the department;
- 1711 (b) a list of the types and brand names of liquor being served through its calibrated
- 1712 metered dispensing system; and
- 1713 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1714 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1715 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
- 1716 licensee:
- 1717 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 1718 Chapter 10, Part 11, Gambling;
- 1719 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 1720 Part 11, Gambling; or
- 1721 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 1722 the risking of something of value for a return or for an outcome when the return or outcome is
- 1723 based upon an element of chance, excluding the playing of an amusement device that confers
- 1724 only an immediate and unrecorded right of replay not exchangeable for value.
- 1725 (21) (a) [~~Each~~] A restaurant liquor licensee shall maintain an expense ledger or record
- 1726 showing in detail:
- 1727 (i) quarterly expenditures made separately for:
- 1728 (A) malt or brewed beverages;
- 1729 (B) set-ups;
- 1730 (C) liquor;

- 1731 (D) food; and
- 1732 (E) all other items required by the department; and
- 1733 (ii) sales made separately for:
- 1734 (A) malt or brewed beverages;
- 1735 (B) set-ups;
- 1736 (C) food; and
- 1737 (D) all other items required by the department.
- 1738 (b) ~~[The]~~ A restaurant liquor licensee shall keep a record required by Subsection
- 1739 (21)(a) ~~[shall be kept]~~:
- 1740 (i) in a form approved by the department; and
- 1741 (ii) current for each three-month period.
- 1742 (c) ~~[Each]~~ An expenditure shall be supported by:
- 1743 (i) a delivery ~~[tickets]~~ ticket;
- 1744 (ii) ~~[invoices]~~ an invoice;
- 1745 (iii) a receipted ~~[bills]~~ bill;
- 1746 (iv) a canceled ~~[checks]~~ check;
- 1747 (v) a petty cash ~~[vouchers]~~ voucher; or
- 1748 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 1749 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 1750 liquor licensee shall maintain accounting and other records and documents as the department
- 1751 may require.
- 1752 (e) ~~[Any]~~ A restaurant liquor licensee or person acting for the restaurant, who
- 1753 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
- 1754 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the restaurant that
- 1755 is required to be made, maintained, or preserved by this title or the rules of the commission for
- 1756 the purpose of deceiving the commission or the department, or ~~[any of their officials or~~
- 1757 ~~employees]~~ an official or employee of the commission or department, is subject to:
- 1758 (i) the suspension or revocation of the restaurant's liquor license; and
- 1759 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1760 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 1761 longer than 240 hours, unless:

1762 (i) the restaurant liquor licensee notifies the department in writing at least seven days
1763 before the ~~[closing]~~ day on which the restaurant liquor licensee closes or ceases operation; and

1764 (ii) the closure or cessation of operation is first approved by the department.

1765 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~
1766 ~~notice of closure shall be made to]~~ the restaurant liquor licensee shall immediately notify the
1767 department by telephone.

1768 (c) (i) The department may authorize a closure or cessation of operation for a period
1769 not to exceed 60 days.

1770 (ii) The department may extend the initial period an additional 30 days upon:

1771 (A) written request of the restaurant liquor licensee; and ~~[upon]~~

1772 (B) a showing of good cause.

1773 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1774 commission approval.

1775 (d) ~~[Any]~~ A notice shall include:

1776 (i) the dates of closure or cessation of operation;

1777 (ii) the reason for the closure or cessation of operation; and

1778 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1779 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1780 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
1781 automatic forfeiture of:

1782 (i) the license; and

1783 (ii) the unused portion of the license fee for the remainder of the license year effective
1784 immediately.

1785 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1786 approved date ~~[shall result]~~ results in an automatic forfeiture of:

1787 (i) the license; and

1788 (ii) the unused portion of the license fee for the remainder of the license year.

1789 (23) ~~[Each]~~ A restaurant liquor licensee shall maintain at least 70% of its total
1790 restaurant business from the sale of food, which does not include mix for an alcoholic
1791 ~~[beverages]~~ beverage or service charges.

1792 (24) A restaurant liquor license may not be transferred from one location to another,

1793 without prior written approval of the commission.

1794 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1795 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license
1796 to ~~[any other]~~ another person whether for monetary gain or not.

1797 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1798 disposition.

1799 (26) ~~[Each]~~ A server of an alcoholic ~~[beverages]~~ beverage in a restaurant liquor
1800 licensee's establishment shall keep a written beverage tab for each table or group that orders or
1801 consumes an alcoholic ~~[beverages]~~ beverage on the premises. The beverage tab shall list the
1802 type and amount of an alcoholic ~~[beverages]~~ beverage ordered or consumed.

1803 (27) A person's willingness to serve an alcoholic ~~[beverages]~~ beverage may not be
1804 made a condition of employment as a server with a restaurant that has a restaurant liquor
1805 license.

1806 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
1807 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1808 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1809 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1810 58-37-2; or

1811 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1812 Section 58-37a-3.

1813 Section 27. Section **32A-4-206** is amended to read:

1814 **32A-4-206. Operational restrictions.**

1815 ~~[Each]~~ A person granted an airport lounge liquor license and the employees and
1816 management personnel of the airport lounge shall comply with the following conditions and
1817 requirements. Failure to comply may result in a suspension or revocation of the airport lounge
1818 liquor license or other disciplinary action taken against individual employees or management
1819 personnel.

1820 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a
1821 state ~~[stores]~~ store or package ~~[agencies]~~ agency.

1822 (b) Liquor purchased from a state store or package agency may be transported by the
1823 airport lounge liquor licensee from the place of purchase to the licensed premises.

1824 (c) Payment for liquor shall be made in accordance with the rules established by the
1825 commission.

1826 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
1827 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1828 dispensing system approved by the department in accordance with commission rules adopted
1829 under this title, except that:

1830 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1831 system if used as a secondary flavoring ingredient in a beverage subject to the following
1832 restrictions:

1833 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1834 a spirituous primary liquor;

1835 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1836 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
1837 stored on the floor plan provided to the department; and

1838 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
1839 "flavorings";

1840 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1841 system if used:

1842 (i) as a flavoring on ~~desserts~~ a dessert; and

1843 (ii) in the preparation of a flaming food ~~dishes, drinks, and desserts~~ dish, drink, or
1844 dessert; and

1845 (c) ~~each~~ an airport lounge patron may have no more than 2.75 ounces of spirituous
1846 liquor at a time before the patron.

1847 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1848 exceed five ounces per glass or individual portion.

1849 (ii) An individual portion may be served to a patron in more than one glass as long as
1850 the total amount of wine does not exceed five ounces.

1851 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1852 Subsection (7)(c).

1853 (b) (i) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters
1854 at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of four or more persons.

1855 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
1856 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1857 persons.

1858 (c) A wine service may be performed and a service charge assessed by the airport
1859 lounge liquor licensee as authorized by commission rule for wine purchased at the airport
1860 lounge.

1861 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
1862 one liter at [~~prices~~] a price fixed by the commission.

1863 (b) A flavored malt beverage may be served in an original container not exceeding one
1864 liter at a price fixed by the commission.

1865 [~~(b)~~] (c) A service charge may be assessed by the airport lounge liquor licensee as
1866 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1867 airport lounge.

1868 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge [~~licensed to sell~~] liquor
1869 licensee may sell beer for on-premise consumption:

1870 (A) in an open container; and

1871 (B) on draft.

1872 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1873 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1874 container that exceeds one liter.

1875 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

1876 (i) may do so without obtaining a separate on-premise beer retailer license from the
1877 commission; and

1878 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1879 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
1880 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1881 part.

1882 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1883 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport
1884 lounge's:

1885 (i) state liquor license; and

1886 (ii) alcoholic beverage license issued by the local authority.

1887 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1888 [~~any~~] a place other than as designated in the airport lounge liquor licensee's application, unless
1889 the airport lounge liquor licensee first applies for and receives approval from the department
1890 for a change of location within the airport lounge.

1891 (7) (a) A patron may only make [~~purchases~~] a purchase in the airport lounge from and
1892 be served by a person employed, designated, and trained by the airport lounge liquor licensee to
1893 sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

1894 (b) Notwithstanding Subsection (7)(a), a patron who [~~has purchased~~] purchases bottled
1895 wine from an employee of the airport lounge may serve wine from the bottle to the patron or
1896 others at the patron's table.

1897 (c) [~~Each~~] An airport lounge patron may have no more than two alcoholic beverages of
1898 any kind at a time before the patron.

1899 (8) The liquor storage area shall remain locked at all times other than those hours and
1900 days when liquor sales and service are authorized by law.

1901 (9) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, offered for sale,
1902 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8
1903 a.m.

1904 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
1905 otherwise furnished to [~~any~~] a:

1906 (a) minor;

1907 (b) person actually, apparently, or obviously intoxicated;

1908 (c) known habitual drunkard; or

1909 (d) known interdicted person.

1910 (11) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

1911 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

1912 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
1913 of the alcoholic beverage to the airport lounge liquor licensee.

1914 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1915 over consumption or intoxication.

1916 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain

1917 hours of the airport ~~[lounge's]~~ lounge liquor licensee's business day such as a "happy hour."

1918 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
1919 served for the price of a single alcoholic beverage ~~[is prohibited].~~

1920 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
1921 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited].~~

1922 (g) An airport lounge liquor licensee may not engage in a public promotion involving
1923 or offering free an alcoholic ~~[beverages]~~ beverage to the general public.

1924 (12) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
1925 an airport lounge by:

1926 (a) the airport lounge liquor licensee; or

1927 (b) ~~[any]~~ an employee or agent of the airport lounge liquor licensee.

1928 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee
1929 ~~[any]~~ an alcoholic beverage for on-premise consumption.

1930 (b) An airport lounge ~~[or its officers, managers, employees, or agents]~~ liquor licensee
1931 or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a
1932 person to bring onto the airport lounge premises ~~[any]~~ an alcoholic beverage for on-premise
1933 consumption or allow consumption of ~~[any such]~~ the alcoholic beverage on ~~[its]~~ the airport
1934 lounge liquor licensee's premises.

1935 (14) An airport lounge liquor licensee and ~~[its employees]~~ an employee of the airport
1936 lounge liquor licensee may not permit a patron to remove ~~[any]~~ an alcoholic ~~[beverages]~~
1937 beverage from the airport lounge premises.

1938 (15) (a) ~~[A minor may not be employed by an]~~ An airport lounge liquor licensee may
1939 not employ a minor to sell or dispense an alcoholic ~~[beverages]~~ beverage.

1940 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be
1941 employed to enter the sale at a cash register or other sales recording device.

1942 (16) An employee of an airport lounge liquor licensee, while on duty, may not:

1943 (a) consume an alcoholic beverage; or

1944 (b) be intoxicated.

1945 (17) ~~[Any]~~ A charge or fee made in connection with the sale, service, or consumption
1946 of liquor may be stated in a food or alcoholic beverage menu including:

1947 (a) a set-up charge;

- 1948 (b) a service charge; or
1949 (c) a chilling fee.
- 1950 (18) ~~[Each]~~ An airport lounge liquor licensee shall display in a prominent place in the
1951 airport lounge:
- 1952 (a) the liquor license that is issued by the department;
1953 (b) a list of the types and brand names of liquor being served through its calibrated
1954 metered dispensing system; and
1955 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1956 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1957 (19) (a) ~~[Each]~~ An airport lounge liquor licensee shall maintain an expense ledger or
1958 record showing in detail:
- 1959 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
1960 other items required by the department; and
1961 (ii) sales made separately for malt or brewed beverages, food, and all other items
1962 required by the department.
- 1963 ~~[(b) This record shall be kept:]~~
- 1964 (b) An airport lounge liquor licensee shall keep a record required by Subsection
1965 (19)(a):
- 1966 (i) in a form approved by the department; and
1967 (ii) current for each three-month period.
- 1968 (c) ~~[Each]~~ An expenditure shall be supported by:
- 1969 (i) a delivery ~~[tickets]~~ ticket;
1970 (ii) ~~[invoices]~~ an invoice;
1971 (iii) a receipted ~~[bills]~~ bill;
1972 (iv) a canceled ~~[checks]~~ check;
1973 (v) a petty cash ~~[vouchers]~~ voucher; or
1974 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 1975 (d) In addition to a ledger or record required by Subsection (19)(a), ~~[each]~~ an airport
1976 lounge liquor licensee shall maintain accounting and other records and documents as the
1977 department may require.
- 1978 (e) ~~[Any]~~ An airport lounge liquor licensee or person acting for the airport lounge, who

1979 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of~~
1980 ~~the books~~] an entry in a book of account or other [~~documents~~] document of the airport lounge
1981 required to be made, maintained, or preserved by this title or the rules of the commission for
1982 the purpose of deceiving the commission [~~or~~], the department, or [~~any of their officials or~~
1983 ~~employees~~] an official or employee of the commission or department, is subject to:

1984 (i) the immediate suspension or revocation of the airport lounge's liquor license; and

1985 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1986 (20) An airport lounge liquor license may not be transferred from one location to
1987 another, without prior written approval of the commission.

1988 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
1989 barter, give, or attempt in any way to dispose of the airport lounge liquor license to [~~any other~~]
1990 another person, whether for monetary gain or not.

1991 (b) An airport lounge liquor license has no monetary value for the purpose of any type
1992 of disposition.

1993 (22) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in [~~a~~] an airport lounge
1994 liquor licensee's establishment shall keep a written beverage tab for each table or group that
1995 orders or consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall
1996 list the type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.

1997 (23) An airport lounge liquor licensee's premises may not be leased for a private
1998 [~~functions~~] function.

1999 (24) An airport lounge liquor licensee may not on the premises of the airport lounge
2000 liquor licensee:

2001 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2002 Chapter 10, Part 11, Gambling;

2003 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2004 Part 11, Gambling; or

2005 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2006 the risking of something of value for a return or for an outcome when the return or outcome is
2007 based upon an element of chance, excluding the playing of an amusement device that confers
2008 only an immediate and unrecorded right of replay not exchangeable for value.

2009 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor

2010 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,
2011 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2012 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2013 58-37-2; or

2014 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2015 Section 58-37a-3.

2016 Section 28. Section **32A-4-302** is amended to read:

2017 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2018 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2019 and beer on its premises, but not spirituous liquor[;] or, on or after October 1, 2008, a flavored
2020 malt beverage, shall obtain a limited restaurant license from the commission as provided in this
2021 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2022 (2) (a) Subject to the other provisions of this section, the commission may issue limited
2023 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in
2024 numbers the commission considers proper for the storage, sale, and consumption of wine,
2025 heavy beer, and beer on premises operated as public restaurants.

2026 (b) The total number of limited restaurant licenses issued under this part may not at any
2027 time aggregate more than that number determined by dividing the population of the state by
2028 [~~11,000~~] 9,300.

2029 (c) For purposes of this Subsection (2), population shall be determined by:

2030 (i) the most recent United States decennial or special census; or

2031 (ii) [~~any other~~] another population determination made by the United States or state
2032 governments.

2033 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
2034 areas the commission considers necessary.

2035 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2036 months.

2037 (b) (i) A limited restaurant license issued for operation during a summer time period is
2038 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
2039 limited restaurant license shall:

2040 (A) begin on May 1; and

2041 (B) end on October 31.

2042 (ii) A limited restaurant license issued for operation during a winter time period is

2043 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"

2044 limited restaurant license shall:

2045 (A) begin on November 1; and

2046 (B) end on April 30.

2047 (iii) In determining the number of limited restaurant licenses that the commission may

2048 issue under this section:

2049 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant

2050 license; and

2051 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"

2052 limited restaurant license.

2053 (c) If the location, design, and construction of a hotel may require more than one

2054 limited restaurant sales location within the hotel to serve the public convenience, the

2055 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited

2056 restaurant locations within the hotel under one license if:

2057 (i) the hotel has a minimum of 150 guest rooms; and

2058 (ii) all locations under the license are:

2059 (A) within the same hotel facility; and

2060 (B) on premises that are:

2061 (I) managed or operated by the licensee; and

2062 (II) owned or leased by the licensee.

2063 (d) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate limited

2064 restaurant license for each restaurant where wine, heavy beer, and beer are sold.

2065 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a limited

2066 restaurant license may not be established:

2067 (i) within 600 feet of [any public or private school, church, public library, public

2068 playground, or park] a community location, as measured by the method in Subsection [(5):]

2069 (4)(d); or

2070 [(b) The premises of a limited restaurant license may not be established]

2071 (ii) within 200 feet of [any public or private school, church, public library, public

2072 ~~playground, or park]~~ a community location, measured in a straight line from the nearest
2073 entrance of the proposed outlet to the nearest property boundary of the [~~public or private~~
2074 ~~school, church, public library, public playground, or park]~~ community location.

2075 [~~(c)~~] ~~The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
2076 ~~following exemptions applies:]~~

2077 [~~(i)~~ ~~with~~] (b) With respect to the establishment of a limited restaurant license [~~in any~~
2078 ~~location~~], the commission may authorize a variance to reduce the proximity [~~requirements~~
2079 ~~requirement~~ of Subsection (4)(a)(i) [~~or (b)~~] if:

2080 [~~(A)~~] (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the
2081 variance;

2082 [~~(B)~~] (ii) the commission finds that alternative locations for establishing a limited
2083 restaurant license in the community are limited;

2084 [~~(C)~~] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where
2085 practical in the neighborhood concerned; [~~and~~]

2086 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the
2087 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2088 establishing the license would not be detrimental to the public health, peace, safety, and
2089 welfare of the community; [~~or~~] and

2090 (v) (A) the community location governing authority gives its written consent to the
2091 variance; or

2092 (B) when written consent is not given by the community location governing authority,
2093 the commission finds that the applicant has established that:

2094 (I) there is substantial unmet public demand to consume alcohol in a public setting
2095 within the geographic boundary of the local authority in which the limited restaurant licensee is
2096 to be located;

2097 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2098 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited
2099 restaurant license; and

2100 (III) there is no reasonably viable alternative location within the geographic boundary
2101 of the local authority in which the limited restaurant licensee is to be located for establishing a
2102 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2103 ~~[(ii) with]~~ (c) With respect to the premises of ~~[any]~~ a limited restaurant license issued
 2104 by the commission that undergoes a change of ownership, the commission may waive or vary
 2105 the proximity requirements of ~~[Subsections]~~ Subsection (4)(a) ~~[and (b)]~~ in considering whether
 2106 to grant a limited restaurant license to the new owner of the premises if:

2107 (i) (A) the premises previously received a variance reducing the proximity
 2108 ~~[requirements]~~ requirement of Subsection (4)(a)(i) ~~[or (b)]~~; or

2109 (B) the premises received a variance reducing the proximity requirement of Subsection
 2110 (4)(a)(ii) on or before May 5, 2008; or

2111 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance requirement]~~ requirements was
 2112 otherwise allowed under this title.

2113 ~~[(5) With respect to any public or private school, church, public library, public~~
 2114 ~~playground, or park, the]~~

2115 (d) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from the
 2116 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
 2117 property boundary of the ~~[public or private school, church, public library, public playground,~~
 2118 ~~school playground, or park]~~ community location.

2119 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the
 2120 proximity of any educational, religious, and recreational facility, or any other relevant factor in
 2121 reaching a decision on a proposed location.

2122 (b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

2123 (i) a nursery school;

2124 (ii) an infant day care center; and

2125 (iii) a trade and technical school.

2126 Section 29. Section **32A-4-303** is amended to read:

2127 **32A-4-303. Application and renewal requirements.**

2128 (1) A person seeking a limited restaurant license under this part shall file a written
 2129 application with the department, in a form prescribed by the department. The application shall
 2130 be accompanied by:

2131 (a) a nonrefundable \$250 application fee;

2132 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2133 (c) written consent of the local authority;

- 2134 (d) a copy of the applicant's current business license;
- 2135 (e) evidence of proximity to any [~~public or private school, church, public library,~~
- 2136 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
- 2137 ~~Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those~~
- 2138 ~~subsections] community location, with proximity requirements being governed by Section~~
- 2139 32A-4-302;
- 2140 (f) a bond as specified by Section 32A-4-306;
- 2141 (g) a floor plan of the restaurant, including:
- 2142 (i) consumption areas; and
- 2143 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
- 2144 beer;
- 2145 (h) evidence that the restaurant is carrying public liability insurance in an amount and
- 2146 form satisfactory to the department;
- 2147 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
- 2148 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 2149 (j) a signed consent form stating that the restaurant will permit any authorized
- 2150 representative of the commission, department, or any law enforcement officer unrestricted right
- 2151 to enter the restaurant;
- 2152 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 2153 company, proper verification evidencing that the person or persons signing the restaurant
- 2154 application are authorized to so act on behalf of the partnership, corporation, or limited liability
- 2155 company; and
- 2156 (l) any other information the commission or department may require.
- 2157 (2) (a) All limited restaurant licenses expire on October 31 of each year.
- 2158 (b) A person desiring to renew that person's limited restaurant license shall submit:
- 2159 (i) a renewal fee of \$300; and
- 2160 (ii) a renewal application to the department no later than September 30.
- 2161 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 2162 the license effective on the date the existing license expires.
- 2163 (d) [~~Renewal applications] A renewal application shall be in a form as prescribed by~~
- 2164 the department.

2165 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
2166 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2167 immediately notify the department of any change in:

- 2168 (a) ownership of the restaurant;
- 2169 (b) for a corporate owner, the:
 - 2170 (i) corporate officer or directors; or
 - 2171 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2172 corporation; or
- 2173 (c) for a limited liability company:
 - 2174 (i) managers; or
 - 2175 (ii) members owning at least 20% of the limited liability company.

2176 Section 30. Section **32A-4-305** is amended to read:

2177 **32A-4-305. Commission and department duties before granting licenses.**

2178 (1) (a) Before a limited restaurant license may be granted by the commission, the
2179 department shall conduct an investigation and may hold public hearings for the purpose of
2180 gathering information and making recommendations to the commission as to whether or not a
2181 license should be granted.

2182 (b) The department shall forward the information and recommendations described in
2183 Subsection (1)(a) to the commission to aid in the commission's determination.

2184 (2) Before issuing [~~any~~] a limited restaurant license, the commission shall:

2185 (a) determine that the applicant has complied with all basic qualifications and
2186 requirements for making application for a license as provided by Sections 32A-4-302 and
2187 32A-4-303;

2188 (b) determine that the application is complete;

2189 (c) consider the locality within which the proposed limited restaurant outlet is located,
2190 including:

2191 (i) physical characteristics such as:

2192 (A) the condition of the premises;

2193 (B) square footage; and

2194 (C) parking availability; and

2195 (ii) operational factors such as:

- 2196 (A) tourist traffic;
- 2197 (B) proximity to and density of other state stores, package agencies, and outlets;
- 2198 (C) demographics;
- 2199 (D) population to be served; and
- 2200 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 2201 ~~playground, or park~~] community location;
- 2202 (d) consider the applicant's ability to manage and operate a limited restaurant license,
- 2203 including:
- 2204 (i) management experience;
- 2205 (ii) past retail liquor experience; and
- 2206 (iii) the type of management scheme employed by the restaurant;
- 2207 (e) consider the nature or type of restaurant operation, including:
- 2208 (i) the type of menu items offered and emphasized;
- 2209 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;
- 2210 (iii) the hours of operation;
- 2211 (iv) the seating capacity of the facility; and
- 2212 (v) the gross sales of food items; and
- 2213 (f) consider any other factors or circumstances the commission considers necessary.

2214 Section 31. Section **32A-4-307** is amended to read:

2215 **32A-4-307. Operational restrictions.**

2216 [~~Each~~] A person granted a limited restaurant license and the employees and

2217 management personnel of the limited restaurant shall comply with the following conditions and

2218 requirements. Failure to comply may result in a suspension or revocation of the license or

2219 other disciplinary action taken against individual employees or management personnel.

2220 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee

2221 except from a state [~~stores~~] store or package [~~agencies~~] agency.

2222 (b) Wine and heavy beer purchased [~~in accordance with Subsection (1)(a)]~~ from a state

2223 store or package agency may be transported by the limited restaurant licensee from the place of

2224 purchase to the licensed premises.

2225 (c) Payment for wine and heavy beer shall be made in accordance with rules

2226 established by the commission.

2227 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
2228 [~~spirituous liquor~~] the products listed in Subsection (2)(c) on the premises of the limited
2229 restaurant.

2230 (b) [~~Spirituous liquor~~] A product listed in Subsection (2)(c) may not be on the premises
2231 of the limited restaurant except for use:

2232 (i) as a flavoring on [~~desserts~~] a dessert; and

2233 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
2234 dessert.

2235 (c) This Subsection (2) applies to:

2236 (i) spirituous liquor; and

2237 (ii) on or after October 1, 2008, a flavored malt beverage.

2238 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2239 exceed five ounces per glass or individual portion.

2240 (ii) An individual portion may be served to a patron in more than one glass as long as
2241 the total amount of wine does not exceed five ounces.

2242 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2243 Subsection (7)(e).

2244 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
2245 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

2246 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
2247 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
2248 persons.

2249 (c) A wine service may be performed and a service charge assessed by the limited
2250 restaurant licensee as authorized by commission rule for wine purchased at the limited
2251 restaurant.

2252 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
2253 one liter at [~~prices~~] a price fixed by the commission.

2254 (b) A service charge may be assessed by the limited restaurant licensee as authorized
2255 by commission rule for heavy beer purchased at the limited restaurant.

2256 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
2257 on-premise consumption:

2258 (A) in an open container; and

2259 (B) on draft.

2260 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
2261 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2262 container that exceeds one liter.

2263 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2264 (i) may do so without obtaining a separate on-premise beer retailer license from the
2265 commission; and

2266 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2267 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
2268 restrictions are inconsistent with or less restrictive than the operational restrictions under this
2269 part.

2270 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2271 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
2272 restaurant's:

2273 (i) limited restaurant license; and

2274 (ii) alcoholic beverage license issued by the local authority.

2275 (6) Wine, heavy beer, and beer may not be stored, served, or sold in [~~any~~] a place other
2276 than as designated in the limited restaurant licensee's application, unless the limited restaurant
2277 licensee first applies for and receives approval from the department for a change of location
2278 within the limited restaurant.

2279 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in [~~the~~]
2280 a limited restaurant from and be served by a person employed, designated, and trained by the
2281 limited restaurant licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2282 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
2283 bottled wine from an employee of the limited restaurant [~~or has carried~~] licensee or carries
2284 bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may
2285 thereafter serve wine from the bottle to the patron or others at the patron's table.

2286 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
2287 patron.

2288 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

2289 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
2290 a patron at a bar.

2291 (e) [~~Each~~] A limited restaurant patron may have no more than two alcoholic beverages
2292 of any kind at a time before the patron.

2293 (8) The alcoholic beverage storage area shall remain locked at all times other than
2294 those hours and days when alcoholic beverage sales are authorized by law.

2295 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2296 furnished at a limited restaurant during the following days or hours:

2297 (i) until after the polls are closed on the day of [~~any~~] a:

2298 (A) regular general election;

2299 (B) regular primary election; or

2300 (C) statewide special election;

2301 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special
2302 service district, or school election, but only:

2303 (A) within the boundaries of the municipality, local district, special service district, or
2304 school district; and

2305 (B) if required by local ordinance; and

2306 (iii) on any other day after 12 midnight and before 12 noon.

2307 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2308 Licenses, for on-premise beer licensees.

2309 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold except in
2310 connection with an order of food prepared, sold, and served at the limited restaurant.

2311 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to
2312 [~~any~~] a:

2313 (a) minor;

2314 (b) person actually, apparently, or obviously intoxicated;

2315 (c) known habitual drunkard; or

2316 (d) known interdicted person.

2317 (12) (a) (i) Wine and heavy beer may be sold only at [~~prices~~] a price fixed by the
2318 commission.

2319 (ii) Wine and heavy beer may not be sold at a discount [~~prices~~] price on any date or at

2320 any time.

2321 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
2322 of the alcoholic ~~[beverages]~~ beverage to the limited restaurant licensee.

2323 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2324 over consumption or intoxication.

2325 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2326 hours of the limited ~~[restaurant's]~~ restaurant licensee's business day such as a "happy hour."

2327 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
2328 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2329 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
2330 during ~~[any]~~ a set period may not be sold or service for a fixed price ~~[is prohibited]~~.

2331 (g) A limited restaurant licensee may not engage in a public promotion involving or
2332 offering free alcoholic beverages to the general public.

2333 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
2334 the limited restaurant by:

2335 (a) the limited restaurant licensee; or

2336 (b) ~~[any]~~ an employee or agent of the limited restaurant licensee.

2337 (14) (a) A person may not bring onto the premises of a limited restaurant licensee ~~[any]~~
2338 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2339 discretion of the limited restaurant licensee, bottled wine onto the premises of ~~[any]~~ a limited
2340 restaurant licensee for on-premise consumption.

2341 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee ~~[or its~~
2342 ~~officers, managers, employees, or agents]~~ or an officer, manager, employee, or agent of a
2343 limited restaurant licensee may not allow:

2344 (i) a person to bring onto the limited restaurant premises ~~[any]~~ an alcoholic beverage
2345 for on-premise consumption; or

2346 (ii) consumption of ~~[any]~~ an alcoholic beverage described in Subsection (14)(b)(i) on
2347 ~~[its]~~ the limited restaurant licensee's premises.

2348 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2349 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2350 (d) A wine service may be performed and a service charge assessed by the limited

2351 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2352 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee [~~and its~~
2353 ~~employees~~] and an employee of the limited restaurant licensee may not permit a restaurant
2354 patron to carry from the limited restaurant premises an open container that:

2355 (i) is used primarily for drinking purposes; and

2356 (ii) contains [~~any~~] an alcoholic beverage.

2357 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2358 contents of a bottle of wine if before removal, the bottle [~~has been~~] is recorked or recapped.

2359 (16) (a) A [~~minor may not be employed by a~~] limited restaurant licensee may not
2360 employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

2361 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2362 employed to enter the sale at a cash register or other sales recording device.

2363 (17) An employee of a limited restaurant licensee, while on duty, may not:

2364 (a) consume an alcoholic beverage; or

2365 (b) be intoxicated.

2366 (18) A charge or fee made in connection with the sale, service, or consumption of wine
2367 or heavy beer may be stated in food or alcoholic beverage menus including:

2368 (a) a service charge; or

2369 (b) a chilling fee.

2370 (19) [~~Each~~] A limited restaurant licensee shall display in a prominent place in the
2371 restaurant:

2372 (a) the limited restaurant license that is issued by the department; and

2373 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2374 drugs is a serious crime that is prosecuted aggressively in Utah."

2375 (20) A limited restaurant licensee may not on the premises of the restaurant:

2376 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2377 Chapter 10, Part 11, Gambling;

2378 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2379 Part 11, Gambling; or

2380 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2381 the risking of something of value for a return or for an outcome when the return or outcome is

2382 based upon an element of chance, excluding the playing of an amusement device that confers
2383 only an immediate and unrecorded right of replay not exchangeable for value.

2384 (21) (a) ~~[Each]~~ A limited restaurant licensee shall maintain an expense ledger or record
2385 showing in detail:

2386 (i) quarterly expenditures made separately for:

2387 (A) wine;

2388 (B) heavy beer;

2389 (C) beer;

2390 (D) food; and

2391 (E) all other items required by the department; and

2392 (ii) sales made separately for:

2393 (A) wine;

2394 (B) heavy beer;

2395 (C) beer;

2396 (D) food; and

2397 (E) all other items required by the department.

2398 (b) ~~[The]~~ A limited restaurant licensee shall keep a record required by Subsection

2399 (21)(a) ~~[shall be kept]~~:

2400 (i) in a form approved by the department; and

2401 (ii) current for each three-month period.

2402 (c) ~~[Each]~~ An expenditure shall be supported by:

2403 (i) a delivery ~~[tickets]~~ ticket;

2404 (ii) ~~[invoices]~~ an invoice;

2405 (iii) a receipted ~~[bills]~~ bill;

2406 (iv) a canceled ~~[checks]~~ check;

2407 (v) a petty cash ~~[vouchers]~~ voucher; or

2408 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

2409 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
2410 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
2411 the department may require.

2412 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly

2413 forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of the books~~]
2414 an entry in a book of account or other [~~documents~~] document of the limited restaurant that is
2415 required to be made, maintained, or preserved by this title or the rules of the commission for
2416 the purpose of deceiving the commission [~~or~~], the department, or [~~any of their officials or~~
2417 ~~employees~~] an official or employee of the commission or department, is subject to:

- 2418 (i) the suspension or revocation of the limited restaurant's license; and
- 2419 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2420 (22) (a) A limited restaurant licensee may not close or cease operation for a period
2421 longer than 240 hours, unless:

- 2422 (i) the limited restaurant licensee notifies the department in writing at least seven days
2423 before the [~~closing~~] day on which the limited restaurant licensee closes or ceases operation; and
- 2424 (ii) the closure or cessation of operation is first approved by the department.

2425 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~
2426 ~~notice of closure shall be made to~~] the limited restaurant licensee shall immediately notify the
2427 department by telephone.

2428 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
2429 cessation of operation for a period not to exceed 60 days.

2430 (ii) The department may extend the initial period an additional 30 days upon:

- 2431 (A) written request of the limited restaurant licensee; and
- 2432 (B) a showing of good cause.

2433 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2434 commission approval.

2435 (d) [~~Any~~] A notice required by Subsection (22)(a) shall include:

- 2436 (i) the dates of closure or cessation of operation;
- 2437 (ii) the reason for the closure or cessation of operation; and
- 2438 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

2439 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
2440 authorization before closure or cessation of operation [~~shall result~~] results in an automatic
2441 forfeiture of:

- 2442 (i) the limited restaurant license; and
- 2443 (ii) the unused portion of the license fee for the remainder of the license year effective

2444 immediately.

2445 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
2446 approved date [~~shall result~~] results in an automatic forfeiture of:

2447 (i) the limited restaurant license; and

2448 (ii) the unused portion of the license fee for the remainder of the license year.

2449 (23) [~~Each~~] A limited restaurant licensee shall maintain at least 70% of its total
2450 restaurant business from the sale of food, which does not include service charges.

2451 (24) A limited restaurant license may not be transferred from one location to another,
2452 without prior written approval of the commission.

2453 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
2454 give, or attempt in any way to dispose of the limited restaurant license to [~~any other~~] another
2455 person whether for monetary gain or not.

2456 (b) A limited restaurant license has no monetary value for the purpose of any type of
2457 disposition.

2458 (26) (a) [~~Each~~] A server of wine, heavy beer, and beer in a limited restaurant licensee's
2459 establishment shall keep a written beverage tab for each table or group that orders or consumes
2460 an alcoholic [~~beverages~~] beverage on the premises.

2461 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
2462 alcoholic [~~beverages~~] beverage ordered or consumed.

2463 (27) A limited restaurant licensee may not make a person's willingness to serve an
2464 alcoholic [~~beverages~~] beverage a condition of employment as a server with the limited
2465 restaurant.

2466 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
2467 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
2468 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2469 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2470 58-37-2; or

2471 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2472 Section 58-37a-3.

2473 Section 32. Section **32A-4-401** is amended to read:

2474 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

- 2475 (1) (a) For purposes of this part:
- 2476 (i) "Banquet" means an event:
- 2477 (A) for which there is a contract:
- 2478 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and
- 2479 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide
- 2480 alcoholic beverages at the event;
- 2481 (B) held at one or more designated locations approved by the commission in or on the
- 2482 premises of a:
- 2483 (I) hotel;
- 2484 (II) resort facility;
- 2485 (III) sports center; or
- 2486 (IV) convention center; and
- 2487 (C) at which food and alcoholic beverages may be sold and served.
- 2488 (ii) "Convention center" is as defined by the commission by rule.
- 2489 (iii) "Hotel" is as defined by the commission by rule.
- 2490 (iv) "Resort facility" is as defined by the commission by rule.
- 2491 (v) "Room service" means service of alcoholic beverages to a guest room of a:
- 2492 (A) hotel; or
- 2493 (B) resort facility.
- 2494 (vi) "Sports center" is as defined by the commission by rule.
- 2495 (b) The commission may issue an on-premise banquet license to any of the following
- 2496 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic
- 2497 beverages in connection with that person's banquet and room service activities:
- 2498 (i) hotel;
- 2499 (ii) resort facility;
- 2500 (iii) sports center; or
- 2501 (iv) convention center.
- 2502 (c) This chapter is not intended to prohibit alcoholic beverages on the premises of a
- 2503 person listed in Subsection (1) to the extent otherwise permitted by this title.
- 2504 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 2505 at any time aggregate more than that number determined by dividing the population of the state

2506 by 30,000.

2507 (b) For purposes of this Subsection (2), the population of the state shall be determined
2508 by:

2509 (i) the most recent United States decennial or special census; or

2510 (ii) ~~[any other]~~ another population determination made by the United States or state
2511 governments.

2512 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
2513 licensee:

2514 (a) the host of a contracted banquet may request an on-premise banquet licensee to
2515 provide alcoholic beverages served at a banquet; and

2516 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
2517 banquet.

2518 (4) At a banquet, an on-premise banquet licensee may provide:

2519 (a) a hosted bar; or

2520 (b) a cash bar.

2521 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
2522 applicant from applying for a package agency.

2523 (6) (a) ~~[The]~~ Except as provided in Subsection (6)(b) or (c), the premises of an
2524 on-premise banquet license may not be established:

2525 (i) within 600 feet of [any public or private school, church, public library, public
2526 playground, or park] a community location, as measured by the method in Subsection (6)(d)[-];
2527 or

2528 ~~[(b) The premises of an on-premise banquet license may not be established]~~

2529 (ii) within 200 feet of [any public or private school, church, public library, public
2530 playground, or park] a community location, measured in a straight line from the nearest
2531 entrance of the proposed outlet to the nearest property boundary of the [public or private
2532 school, church, public library, public playground, or park] community location.

2533 ~~[(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the~~
2534 ~~following exemptions applies:]~~

2535 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise banquet license
2536 ~~[within any location],~~ the commission may authorize a variance to reduce the proximity

2537 [~~requirements~~] requirement of Subsection (6)(a)(i) [~~or (b)~~] if:

2538 [(A)] (i) the local authority grants its written consent to the variance;

2539 [(B)] (ii) the commission finds that alternative locations for establishing an on-premise

2540 banquet license in the community are limited;

2541 [(C)] (iii) the variance is authorized after a public hearing is held in the city, town, or

2542 county, and where practical in the neighborhood concerned; [~~and~~]

2543 [(D)] (iv) after giving full consideration to all of the attending circumstances and the

2544 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that

2545 establishing the license would not be detrimental to the public health, peace, safety, and

2546 welfare of the community; [~~or~~] and

2547 (v) (A) the community location governing authority gives its written consent to the

2548 variance; or

2549 (B) when written consent is not given by the community location governing authority,

2550 the commission finds that the applicant has established that:

2551 (I) there is substantial unmet public demand to consume alcohol in a public setting

2552 within the geographic boundary of the local authority in which the on-premise banquet license

2553 premises is to be located;

2554 (II) there is no reasonably viable alternative for satisfying substantial unmet demand

2555 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise

2556 banquet license; and

2557 (III) there is no reasonably viable alternative location within the geographic boundary

2558 of the local authority in which the on-premise banquet license premises is to be located for

2559 establishing an on-premise banquet license to satisfy the unmet demand described in

2560 Subsection (6)(b)(v)(B)(I).

2561 [(ii) ~~with~~] (c) With respect to the premises of any on-premise banquet license issued

2562 by the commission that undergoes a change of ownership, the commission may waive or vary

2563 the proximity requirements of [~~Subsections~~] Subsection (6)(a) [~~and (b)~~] in considering whether

2564 to grant an on-premise banquet license to the new owner of the premises if:

2565 (i) (A) the premises previously received a variance reducing the proximity

2566 [~~requirements~~] requirement of Subsection (6)(a)(i) [~~or (b)~~]; or

2567 (B) the premises received a variance reducing the proximity requirement of Subsection

2568 (6)(a)(ii) on or before May 4, 2008; or

2569 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
2570 under this title.

2571 (d) ~~[With respect to any public or private school, church, public library, public~~
2572 ~~playground, or park, the]~~ The 600 foot limitation described in Subsection (6)(a) is measured
2573 from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian
2574 travel to the property boundary of the [public or private school, church, public library, public
2575 ~~playground, school playground, or park]~~ community location.

2576 (7) (a) Nothing in this section prevents the commission from considering the proximity
2577 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
2578 decision on a proposed location.

2579 (b) For purposes of this Subsection (7), "educational facility" includes:

2580 (i) a nursery school;

2581 (ii) an infant day care center; and

2582 (iii) a trade and technical school.

2583 Section 33. Section **32A-4-402** is amended to read:

2584 **32A-4-402. Application and renewal requirements.**

2585 (1) (a) A person seeking an on-premise banquet license under this part shall file a
2586 written application with the department, in a form prescribed by the department. The
2587 application shall be accompanied by:

2588 (i) a nonrefundable \$250 application fee;

2589 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2590 (iii) written consent of the local authority;

2591 (iv) a copy of the applicant's current business license;

2592 (v) evidence of proximity to any ~~[public or private school, church, public library,~~
2593 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
2594 ~~Subsection 32A-4-401(6), the application shall be processed in accordance with those~~
2595 ~~subsections]~~ community location, with proximity requirements being governed by Section

2596 32A-4-401;

2597 (vi) a bond as specified by Section 32A-4-405;

2598 (vii) a description or floor plan and boundary map of the premises, where appropriate,

2599 of the on-premise banquet license applicant's location, designating:

2600 (A) the location at which the on-premise banquet license applicant proposes that
2601 alcoholic beverages be stored; and

2602 (B) the designated locations on the premises of the applicant from which the
2603 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
2604 consumed;

2605 (viii) evidence that the on-premise banquet license applicant is carrying public liability
2606 insurance in an amount and form satisfactory to the department;

2607 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
2608 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

2609 (x) a signed consent form stating that the on-premise banquet license applicant will
2610 permit any authorized representative of the commission, department, or any law enforcement
2611 officer unrestricted right to enter the on-premise banquet premises;

2612 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
2613 company, proper verification evidencing that the person or persons signing the on-premise
2614 banquet license application are authorized to so act on behalf of the partnership, corporation, or
2615 limited liability company; and

2616 (xii) any other information the commission or department may require.

2617 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
2618 and (vi) if the applicant is:

2619 (i) a state agency; or

2620 (ii) a political subdivision of the state including:

2621 (A) a county; or

2622 (B) a municipality.

2623 (2) Additional locations in or on the premises of an on-premise banquet license
2624 applicant's business from which the on-premise banquet license applicant may propose that
2625 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
2626 original application may be approved by the department upon proper application, in accordance
2627 with guidelines approved by the commission.

2628 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2629 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that

2630 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed
2631 renewal application to the department no later than September 30.

2632 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2633 (A) a state agency; or

2634 (B) a political subdivision of the state including:

2635 (I) a county; or

2636 (II) a municipality.

2637 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2638 the license effective on the date the existing license expires.

2639 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by
2640 the department.

2641 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may
2642 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
2643 immediately notify the department of any change in:

2644 (a) ownership of the licensee;

2645 (b) for a corporate owner, the:

2646 (i) corporate officers or directors; or

2647 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2648 corporation; or

2649 (c) for a limited liability company:

2650 (i) managers; or

2651 (ii) members owning at least 20% of the limited liability company.

2652 Section 34. Section ~~32A-4-406~~ is amended to read:

2653 **32A-4-406. Operational restrictions.**

2654 [~~Each~~] A person granted an on-premise banquet license and the employees and
2655 management personnel of the on-premise banquet licensee shall comply with this title, the rules
2656 of the commission, and the following conditions and requirements. Failure to comply may
2657 result in a suspension or revocation of the on-premise banquet license or other disciplinary
2658 action taken against individual employees or management personnel.

2659 (1) A person involved in the sale or service of an alcoholic [~~beverages~~] beverage under
2660 the on-premise banquet license shall:

2661 (a) be under the supervision and direction of the on-premise banquet licensee; and

2662 (b) complete the seminar provided for in Section 62A-15-401.

2663 (2) (a) Liquor may not be purchased by ~~the~~ an on-premise banquet licensee except
2664 from a state ~~stores~~ store or package ~~agencies~~ agency.

2665 (b) Liquor purchased ~~[in accordance with Subsection (2)(a)]~~ from a state store or
2666 package agency may be transported by the on-premise banquet licensee from the place of
2667 purchase to the licensed premises.

2668 (c) Payment for liquor shall be made in accordance with rules established by the
2669 commission.

2670 (3) ~~[Alcoholic beverages]~~ An alcoholic beverage may be sold or provided at a banquet
2671 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

2672 (a) An on-premise banquet licensee may sell or provide ~~[any]~~ a primary spirituous
2673 liquor only in a quantity not to exceed one ounce per beverage dispensed through a calibrated
2674 metered dispensing system approved by the department in accordance with commission rules
2675 adopted under this title, except that:

2676 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
2677 system if used as a secondary flavoring ingredient in a beverage subject to the following
2678 restrictions:

2679 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
2680 of a primary spirituous liquor;

2681 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

2682 (C) the on-premise banquet licensee shall designate a location where flavorings are
2683 stored on the floor plan provided to the department; and

2684 (D) ~~[a]~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
2685 "flavorings";

2686 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
2687 system if used:

2688 (A) as a flavoring on ~~[desserts]~~ a dessert; and

2689 (B) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
2690 dessert;

2691 (iii) ~~[each]~~ an attendee may have no more than 2.75 ounces of spirituous liquor at a

2692 time before the attendee; and

2693 (iv) ~~[each]~~ an attendee may have no more than one spirituous liquor drink at a time
2694 before the attendee.

2695 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
2696 exceed five ounces per glass or individual portion.

2697 (B) An individual portion may be served to an attendee in more than one glass as long
2698 as the total amount of wine does not exceed five ounces.

2699 (C) An individual portion of wine is considered to be one alcoholic beverage under
2700 Subsection (5)(c).

2701 (ii) Wine may be sold and served in ~~[containers]~~ a container not exceeding 1.5 liters at
2702 ~~[prices]~~ a price fixed by the commission.

2703 (iii) A wine service may be performed and a service charge assessed by the on-premise
2704 banquet licensee as authorized by commission rule for wine purchased on the banquet
2705 premises.

2706 (c) (i) Heavy beer may be served in an original ~~[containers]~~ container not exceeding
2707 one liter at ~~[prices]~~ a price fixed by the commission.

2708 (ii) A flavored malt beverage may be served in an original container not exceeding one
2709 liter at a price fixed by the commission.

2710 ~~[(ii)]~~ (iii) A service charge may be assessed by the on-premise banquet licensee as
2711 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the
2712 banquet premises.

2713 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
2714 on-premise consumption:

2715 (A) in an open container; and

2716 (B) on draft.

2717 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
2718 not exceed two liters, except that beer may not be sold to an individual attendee in a container
2719 size that exceeds one liter.

2720 (4) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in
2721 any place other than as designated in the on-premise banquet licensee's application, except that
2722 additional locations in or on the premises of an on-premise banquet licensee may be approved

2723 in accordance with guidelines approved by the commission as provided in Subsection
2724 32A-4-402(2).

2725 (5) (a) An attendee may only make an alcoholic beverage [~~purchases~~] purchase from
2726 and be served by a person employed, designated, and trained by the on-premise banquet
2727 licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2728 (b) Notwithstanding Subsection (5)(a), an attendee who [~~has purchased~~] purchases
2729 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine
2730 from the bottle to the attendee or others at the attendee's table.

2731 (c) [~~Each~~] An attendee may have no more than two alcoholic beverages of any kind at a
2732 time before the attendee.

2733 (6) The alcoholic beverage storage area shall remain locked at all times other than
2734 those hours and days when alcoholic beverage sales are authorized by law.

2735 (7) (a) Except as provided in Subsection (7)(b), an alcoholic [~~beverages~~] beverage may
2736 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee
2737 from 10 a.m. to 1 a.m. seven days a week:

- 2738 (i) at a banquet; or
2739 (ii) in connection with room service.

2740 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a
2741 banquet or in connection with room service until after the polls are closed on the day of:

- 2742 (i) a regular general election;
2743 (ii) a regular primary election; or
2744 (iii) a statewide special election.

2745 (8) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
2746 furnished to [~~any~~] a:

- 2747 (a) minor;
2748 (b) person actually, apparently, or obviously intoxicated;
2749 (c) known habitual drunkard; or
2750 (d) known interdicted person.

2751 (9) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

2752 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

2753 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost

2754 of the alcoholic beverage to the on-premise banquet licensee.

2755 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2756 over consumption or intoxication.

2757 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2758 hours of the on-premise banquet licensee's business day such as a "happy hour."

2759 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
2760 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2761 (f) An on-premise banquet licensee may not engage in a public promotion involving or
2762 offering free alcoholic beverages to the general public.

2763 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for an
2764 attendee by:

2765 (a) the on-premise banquet licensee; or

2766 (b) ~~[any]~~ an employee or agent of the on-premise banquet licensee.

2767 (11) An attendee of a banquet may not bring ~~[any]~~ an alcoholic beverage into or onto,
2768 or remove ~~[any]~~ an alcoholic beverage from the premises of a banquet.

2769 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic
2770 ~~[beverages]~~ beverage by an on-premise banquet licensee at a banquet shall be made only for
2771 consumption at the location of the banquet.

2772 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the
2773 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet
2774 licensee, may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

2775 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
2776 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

2777 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic
2778 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

2779 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~
2780 an employee of the on-premise banquet licensee, shall:

2781 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not
2782 saleable, under conditions established by the department; and

2783 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2784 (A) opened and unused alcoholic beverage that is saleable; and

2785 (B) unopened [~~containers~~] container of an alcoholic [~~beverages~~] beverage.

2786 (15) Except as provided in Subsection (14), [~~any~~] an open or sealed container of an
2787 alcoholic [~~beverages~~] beverage not sold or consumed at a banquet:

2788 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet
2789 licensee's approved locked storage area; and

2790 (b) may be used at more than one banquet.

2791 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
2792 or otherwise furnish an alcoholic [~~beverages~~] beverage in connection with the on-premise
2793 banquet licensee's banquet and room service activities.

2794 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2795 (a) consume an alcoholic beverage; or

2796 (b) be intoxicated.

2797 (18) An on-premise banquet licensee shall prominently display at [~~each~~] a banquet at
2798 which an alcoholic [~~beverages are~~] beverage is sold or served:

2799 (a) a copy of the licensee's on-premise banquet license; and

2800 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2801 drugs is a serious crime that is prosecuted aggressively in Utah."

2802 (19) An on-premise banquet licensee may not on the premises of the hotel, resort
2803 facility, sports center, or convention center:

2804 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2805 Chapter 10, Part 11, Gambling;

2806 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2807 Part 11, Gambling; or

2808 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2809 the risking of something of value for a return or for an outcome when the return or outcome is
2810 based upon an element of chance, excluding the playing of an amusement device that confers
2811 only an immediate and unrecorded right of replay not exchangeable for value.

2812 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
2813 records and documents as the commission or department may require.

2814 (b) An on-premise banquet licensee or person acting for the on-premise banquet
2815 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~

2816 ~~entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document of the
2817 on-premise banquet licensee required to be made, maintained, or preserved by this title or the
2818 rules of the commission for the purpose of deceiving the commission ~~[or]~~, the department, or
2819 ~~[any of their officials or employees]~~ an official or employee of the commission or department,
2820 is subject to:

2821 (i) the suspension or revocation of the on-premise banquet license; and

2822 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2823 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
2824 licensee shall provide the department with advance notice of a scheduled banquet in
2825 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah
2826 Administrative Rulemaking Act.

2827 (b) The advance notice required by Subsection (21)(a) is required to provide any of the
2828 following the opportunity to conduct a random inspection of a banquet:

2829 (i) an authorized representative of the commission or the department; or

2830 (ii) a law enforcement officer.

2831 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
2832 banquet gross receipts from the sale of food, not including:

2833 (a) mix for an alcoholic ~~[beverages]~~ beverage; and

2834 (b) ~~[charges]~~ a charge in connection with the service of an alcoholic ~~[beverages]~~
2835 beverage.

2836 (23) A person may not transfer an on-premise banquet license from one business
2837 location to another without prior written approval of the commission.

2838 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
2839 barter, give, or attempt in any way to dispose of the license to ~~[any other]~~ another person,
2840 whether for monetary gain or not.

2841 (b) An on-premise banquet license has no monetary value for the purpose of any type
2842 of disposition.

2843 (25) (a) Room service of an alcoholic ~~[beverages]~~ beverage to a guest room of a hotel
2844 or resort facility shall be provided in person by an on-premise banquet licensee employee only
2845 to an adult guest in the guest room.

2846 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be left outside a guest room

2847 for retrieval by a guest.

2848 (c) An on-premise banquet licensee may only provide an alcoholic [beverages]
2849 beverage for room service in a sealed [containers] container.

2850 (26) An on-premise banquet licensee or an employee of the on-premise banquet
2851 licensee may not knowingly allow a person on a banquet location of a hotel, resort facility,
2852 sports center, or convention center to, in violation of Title 58, Chapter 37, Utah Controlled
2853 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2854 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2855 58-37-2; or

2856 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2857 Section 58-37a-3.

2858 Section 35. Section **32A-5-101** is amended to read:

2859 **32A-5-101. Commission's power to license private clubs -- Limitations.**

2860 (1) Before a private club may sell or allow the consumption of alcoholic beverages on
2861 its premises, the private club shall first obtain a license from the commission as provided in
2862 this chapter.

2863 (2) The commission may grant private club licenses to social clubs, recreational,
2864 athletic, or kindred associations that desire to maintain premises upon which alcoholic
2865 beverages may be stored, sold, served, and consumed.

2866 (3) At the time the commission grants a private club license the commission shall
2867 designate whether the private club license qualifies as a class A, B, C, or D license as defined
2868 in Subsections (3)(a) through (d).

2869 (a) A "class A licensee" is a private club licensee that:

2870 (i) meets the requirements of this chapter;

2871 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a
2872 club house such as:

2873 (A) a golf course; or

2874 (B) a tennis facility;

2875 (iii) has at least 50% of the total membership having:

2876 (A) full voting rights; and

2877 (B) an equal share of the equity of the club; and

- 2878 (iv) if there is more than one class of membership, has at least one class of membership
2879 that entitles each member in that class to:
- 2880 (A) full voting rights; and
 - 2881 (B) an equal share of the equity of the club.
- 2882 (b) A "class B licensee" is a private club licensee that:
- 2883 (i) meets the requirements of this chapter;
 - 2884 (ii) has no capital stock;
 - 2885 (iii) exists solely for:
 - 2886 (A) the benefit of its members and their beneficiaries; and
 - 2887 (B) [~~any~~] a lawful social, intellectual, educational, charitable, benevolent, moral,
2888 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
2889 through voluntary activity of its members in their local lodges;
 - 2890 (iv) has a representative form of government; and
 - 2891 (v) has a lodge system in which:
 - 2892 (A) there is a supreme governing body;
 - 2893 (B) subordinate to the supreme governing body are local lodges, however designated,
2894 into which individuals are admitted as members in accordance with the laws of the fraternal;
 - 2895 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
2896 least monthly; and
 - 2897 (D) the local lodges regularly engage in one or more programs involving member
2898 participation to implement the purposes of Subsection (3)(b)(iii).
 - 2899 (c) A "class C licensee" is a private club licensee that:
 - 2900 (i) meets the requirements of this chapter;
 - 2901 (ii) is a dining club, as determined by the commission in accordance with Subsection
2902 (4); and
 - 2903 (iii) maintains at least 50% of its total private club business from the sale of food, not
2904 including:
 - 2905 (A) mix for alcoholic beverages; or
 - 2906 (B) service charges.
 - 2907 (d) A "class D licensee" is a private club licensee that:
 - 2908 (i) meets the requirements of this chapter; and

2909 (ii) (A) does not meet the requirements of a class A, B, or C license; or
2910 (B) seeks to qualify as a class D licensee.
2911 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the
2912 commission:
2913 (a) shall determine whether the applicant maintains at least 50% of its total private club
2914 business from the sale of food, not including:
2915 (i) mix for alcoholic beverages;
2916 (ii) service charges; or
2917 (iii) membership and visitor card fees; and
2918 (b) may consider:
2919 (i) the square footage and seating capacity of the applicant;
2920 (ii) what portion of the square footage and seating capacity will be used for a dining
2921 area in comparison to the portion that will be used as a bar area;
2922 (iii) whether full meals including appetizers, main courses, and desserts are served;
2923 (iv) whether the applicant will maintain adequate on-premise culinary facilities to
2924 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
2925 may use the culinary facilities of the hotel or resort facility;
2926 (v) whether the entertainment provided at the club is suitable for minors; and
2927 (vi) the club management's ability to manage and operate a dining club including:
2928 (A) management experience;
2929 (B) past dining club or restaurant management experience; and
2930 (C) the type of management scheme employed by the private club.
2931 (5) (a) A private club or any officer, director, managing agent, or employee of a private
2932 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises
2933 of the club, under a permit issued by local authority or otherwise, unless a private club license
2934 ~~[has been]~~ is first issued by the commission.
2935 (b) Violation of this Subsection (5) is a class B misdemeanor.
2936 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue
2937 private club licenses at places and in numbers as ~~[it]~~ the commission considers necessary.
2938 (b) The total number of private club licenses may not at any time aggregate more than
2939 that number determined by dividing the population of the state by ~~[7,300]~~ 7,850.

- 2940 (c) For purposes of this Subsection (6), population shall be determined by:
- 2941 (i) the most recent United States decennial or special census; or
- 2942 (ii) [~~any other~~] another population determination made by the United States or state
- 2943 governments.
- 2944 (d) (i) The commission may issue seasonal private club licenses to be established in
- 2945 areas the commission considers necessary.
- 2946 (ii) A seasonal private club license shall be for a period of six consecutive months.
- 2947 (iii) A private club license issued for operation during a summer time period is known
- 2948 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license
- 2949 shall:
- 2950 (A) begin on May 1; and
- 2951 (B) end on October 31.
- 2952 (iv) A private club license issued for operation during a winter time period is known as
- 2953 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license
- 2954 shall:
- 2955 (A) begin on November 1; and
- 2956 (B) end on April 30.
- 2957 (v) In determining the number of private club licenses that the commission may issue
- 2958 under this section:
- 2959 (A) a seasonal private club license is counted as 1/2 of one private club license; and
- 2960 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.
- 2961 (e) (i) If the location, design, and construction of a hotel may require more than one
- 2962 private club location within the hotel to serve the public convenience, the commission may
- 2963 authorize as many as three private club locations within the hotel under one license if:
- 2964 (A) the hotel has a minimum of 150 guest rooms; and
- 2965 (B) all locations under the license are:
- 2966 (I) within the same hotel facility; and
- 2967 (II) on premises which are managed or operated and owned or leased by the licensee.
- 2968 (ii) [~~Facilities~~] A facility other than [~~hotels~~] a hotel may not have more than one private
- 2969 club location under a single private club license.
- 2970 (7) (a) [~~The~~] Except as provided in Subsection (7)(b) or (c), the premises of a private

2971 club license may not be established;

2972 ~~(i) within 600 feet of [any public or private school, church, public library, public~~
 2973 ~~playground, or park] a community location, as measured by the method in Subsection [(8):]~~
 2974 ~~(7)(d); or~~

2975 ~~[(b) The premises of a private club license may not be established]~~

2976 ~~(ii) within 200 feet of [any public or private school, church, public library, public~~
 2977 ~~playground, or park] a community location, measured in a straight line from the nearest~~
 2978 ~~entrance of the proposed outlet to the nearest property boundary of the [public or private~~
 2979 ~~school, church, public library, public playground, or park] community location.~~

2980 ~~[(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the~~
 2981 ~~following exemptions applies:]~~

2982 ~~[(i) with] (b) With respect to the establishment of a private club license [within a city~~
 2983 ~~of the third, fourth, or fifth class, a town, or the unincorporated area of a county], the~~
 2984 ~~commission may authorize a variance to reduce the proximity [requirements] requirement of~~
 2985 ~~Subsection (7)(a)(i) [or (b)] if:~~

2986 ~~[(A)] (i) the local governing authority [has granted] grants its written consent to the~~
 2987 ~~variance;~~

2988 ~~[(B)] (ii) the commission finds that alternative locations for establishing a private club~~
 2989 ~~license in the community are limited;~~

2990 ~~[(C)] (iii) a public hearing [has been] is held in the city, town, or county, and where~~
 2991 ~~practical in the neighborhood concerned; [and]~~

2992 ~~[(D)] (iv) after giving full consideration to all of the attending circumstances and the~~
 2993 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
 2994 ~~establishing the license would not be detrimental to the public health, peace, safety, and~~
 2995 ~~welfare of the community; and~~

2996 ~~[(ii) with respect to the establishment of a private club license in any location, the~~
 2997 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~
 2998 ~~(7)(a) or (b) in relation to a church:]~~

2999 ~~[(A) if the local governing body of the church in question gives its written consent to~~
 3000 ~~the variance;]~~

3001 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~

3002 neighborhood concerned; and]

3003 [~~(C) after giving full consideration to all of the attending circumstances and the~~

3004 policies stated in Subsections 32A-1-104(3) and (4); or]

3005 (v) (A) the community location governing authority gives its written consent to the

3006 variance; or

3007 (B) when written consent is not given by the community location governing authority,

3008 the commission finds that the applicant has established that:

3009 (I) there is substantial unmet public demand to consume alcohol in a public setting

3010 within the geographic boundary of the local authority in which the private club licensee is to be

3011 located;

3012 (II) there is no reasonably viable alternative for satisfying substantial unmet demand

3013 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club

3014 licensee; and

3015 (III) there is no reasonably viable alternative location within the geographic boundary

3016 of the local authority in which the private club licensee is to be located for establishing a

3017 private club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).

3018 [~~(iii) with~~] (c) With respect to the premises of a private club license issued by the

3019 commission that undergoes a change of ownership, the commission may waive or vary the

3020 proximity requirements of Subsection (7)(a) [~~or (b)~~] in considering whether to grant a private

3021 club license to the new owner of the premises if:

3022 (i) (A) the premises previously received a variance reducing the proximity

3023 [~~requirements~~] requirement of Subsection (7)(a)(i) [~~or (b)~~]; or

3024 (B) the premises received a variance reducing the proximity requirement of Subsection

3025 (7)(a)(ii) on or before May 4, 2008;

3026 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed

3027 under this title.

3028 [~~(8) With respect to any public or private school, church, public library, public~~

3029 ~~playground, or park, the]~~

3030 (d) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the

3031 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the

3032 property boundary of the [~~public or private school, church, public library, public playground, or~~

3033 ~~park]~~ community location.

3034 [~~(9)~~] (8) (a) Nothing in this section prevents the commission from considering the
3035 proximity of any educational, religious, and recreational facility, or any other relevant factor in
3036 reaching a decision on whether to issue a private club license.

3037 (b) For purposes of this Subsection [~~(9)~~] (8), "educational facility" includes:

3038 (i) a nursery school;

3039 (ii) infant day care center; and

3040 (iii) a trade and technical school.

3041 [~~(10)~~] (9) If requested by a private club licensee, the commission may approve a
3042 change in the class of private club license in accordance with rules made by the commission.

3043 Section 36. Section **32A-5-102** is amended to read:

3044 **32A-5-102. Application and renewal requirements.**

3045 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
3046 file a written application with the department in a form prescribed by the department. The
3047 application shall be accompanied by:

3048 (a) a nonrefundable \$250 application fee;

3049 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

3050 (c) written consent of the local authority;

3051 (d) a copy of the applicant's current business license;

3052 (e) evidence of proximity to any [~~public or private school, church, public library,~~

3053 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~

3054 ~~Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those~~

3055 ~~subsections]~~ community location, with proximity requirements being governed by Section

3056 32A-5-101;

3057 (f) evidence that the applicant operates a club where a variety of food is prepared and
3058 served in connection with dining accommodations;

3059 (g) a bond as specified by Section 32A-5-106;

3060 (h) a floor plan of the club premises, including consumption areas and the area where
3061 the applicant proposes to keep and store liquor;

3062 (i) evidence that the club is carrying public liability insurance in an amount and form
3063 satisfactory to the department;

3064 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
3065 per occurrence and \$1,000,000 in the aggregate;

3066 (k) a copy of the club's bylaws or house rules, and any amendments to those
3067 documents, which shall be kept on file with the department at all times;

3068 (l) a signed consent form stating that the club and its management will permit any
3069 authorized representative of the commission, department, or any law enforcement officer
3070 unrestricted right to enter the club premises;

3071 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
3072 C, or D private club licensee; and

3073 (ii) evidence that the private club meets the requirements for the classification for
3074 which the club is applying;

3075 (n) in the case of a partnership, corporation, or limited liability company applicant,
3076 proper verification evidencing that the person or persons signing the private club application
3077 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
3078 and

3079 (o) any other information the commission or department may require.

3080 (2) (a) The commission may refuse to issue a license if the commission determines that
3081 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

3082 (i) reasonable; and

3083 (ii) consistent with:

3084 (A) the declared nature and purpose of the applicant; and

3085 (B) the purposes of this chapter.

3086 (b) Club bylaws or house rules shall include provisions respecting the following:

3087 (i) standards of eligibility for members;

3088 (ii) limitation of members, consistent with the nature and purpose of the private club;

3089 (iii) the period for which dues are paid, and the date upon which the period expires;

3090 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3091 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor
3092 cards.

3093 (3) (a) All private club licenses expire on June 30 of each year.

3094 (b) A person desiring to renew that person's private club license shall submit by no later

3095 than May 31:

3096 (i) a completed renewal application to the department; and

3097 (ii) a renewal fee in the following amount:

3098 Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
3099 under \$10,000	\$1,000
3100 equals or exceeds \$10,000 but less than \$25,000	\$1,250
3101 equals or exceeds \$25,000 but less than \$75,000	\$1,750
3102 equals or exceeds \$75,000	\$2,250

3103 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3104 the license effective on the date the existing license expires.

3105 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by
3106 the department.

3107 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may
3108 suspend or revoke any private club license if the private club licensee does not immediately
3109 notify the department of any change in:

3110 (a) ownership of the club;

3111 (b) for a corporate owner, the:

3112 (i) corporate officers or directors; or

3113 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3114 corporation; or

3115 (c) for a limited liability company:

3116 (i) managers; or

3117 (ii) members owning at least 20% of the limited liability company.

3118 Section 37. Section **32A-5-104** is amended to read:

3119 **32A-5-104. Commission and department duties before granting licenses.**

3120 (1) (a) Before a private club license may be granted by the commission, the department
3121 shall conduct an investigation and may hold public hearings for the purpose of gathering
3122 information and making recommendations to the commission as to whether or not a license
3123 should be granted.

3124 (b) The department shall forward the information and recommendations described in
3125 Subsection (1)(a) to the commission to aid in the commission's determination.

- 3126 (2) Before issuing ~~[any]~~ a private club license, the commission shall:
- 3127 (a) determine that:
- 3128 (i) the applicant has complied with all basic qualifications and requirements for making
- 3129 application for a license as provided by Sections 32A-5-102 and 32A-5-103~~[-]~~; and ~~[that]~~
- 3130 (ii) the application is complete;
- 3131 (b) determine whether the applicant qualifies as a class A, B, C, or D private club
- 3132 licensee;
- 3133 (c) consider the locality within which the proposed private club outlet is located
- 3134 including:
- 3135 (i) physical characteristics such as:
- 3136 (A) condition of the premises;
- 3137 (B) square footage; and
- 3138 (C) parking availability; and
- 3139 (ii) operational factors such as:
- 3140 (A) tourist traffic;
- 3141 (B) proximity to and density of other state stores, package agencies, and licensed
- 3142 outlets;
- 3143 (C) demographics;
- 3144 (D) population to be served; and
- 3145 (E) the extent of and proximity to any ~~[school, church, public library, public~~
- 3146 ~~playground, or park]~~ community location;
- 3147 (d) consider the club management's ability to manage and operate a private club
- 3148 license, including:
- 3149 (i) management experience~~[-]~~;
- 3150 (ii) past retail liquor experience~~[-]~~; and
- 3151 (iii) the type of management scheme employed by the private club;
- 3152 (e) consider the nature or type of private club operation of the proposed liquor licensee,
- 3153 including:
- 3154 (i) the type of menu items offered and emphasized~~[-]~~;
- 3155 (ii) the hours of operation~~[-]~~;
- 3156 (iii) the seating capacity of the facility~~[-]~~; and

3157 (iv) the gross sales of food items; and
3158 (f) consider any other factor or circumstance the commission considers necessary.
3159 Section 38. Section **32A-5-107** is amended to read:
3160 **32A-5-107. Operational restrictions.**
3161 [Each] A club granted a private club license and the employees, management personnel,
3162 and members of the club shall comply with the following conditions and requirements. Failure
3163 to comply may result in a suspension or revocation of the private club license or other
3164 disciplinary action taken against individual employees or management personnel.
3165 (1) [Each] A private club shall have a governing body that:
3166 (a) consists of three or more members of the private club; and
3167 (b) holds regular meetings to:
3168 (i) review membership applications; and
3169 (ii) conduct [~~any~~] other business as required by the bylaws or house rules of the private
3170 club.
3171 (2) (a) [Each] A private club may admit an individual as a member only on written
3172 application signed by the applicant, subject to:
3173 (i) the applicant paying an application fee as required by Subsection (4); and
3174 (ii) investigation, vote, and approval of a quorum of the governing body.
3175 (b) (i) [~~Admissions~~] An admission of a member shall be recorded in the official
3176 minutes of a regular meeting of the governing body.
3177 (ii) An application, whether approved or disapproved, shall be filed as a part of the
3178 official records of the private club licensee.
3179 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
3180 applicant and immediately accord the applicant temporary privileges of a member until the
3181 governing body completes its investigation and votes on the application, subject to the
3182 following conditions:
3183 (i) the applicant shall:
3184 (A) submit a written application; and
3185 (B) pay the application fee required by Subsection (4);
3186 (ii) the governing body votes on the application at its next meeting, which shall take
3187 place no later than 31 days following the day on which the application [~~was~~] is submitted; and

3188 (iii) the applicant's temporary membership privileges [~~are terminated~~] terminate if the
3189 governing body disapproves the application.

3190 (d) The spouse of a member of any class of private club [~~is entitled to all~~] has the rights
3191 and privileges of the member:

3192 (i) to the extent permitted by the bylaws or house rules of the private club; and

3193 (ii) except to the extent restricted by this title.

3194 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
3195 rights and privileges of the member:

3196 (i) to the extent permitted by the bylaws or house rules of the private club; and

3197 (ii) except to the extent restricted by this title.

3198 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
3199 showing:

3200 (i) the date of application of [~~each~~] a proposed member;

3201 (ii) [~~each~~] a member's address;

3202 (iii) the date the governing body approved a member's admission;

3203 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and

3204 (v) the serial number of the membership card issued to [~~each~~] a member.

3205 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~
3206 resigned] a member is dropped or resigns.

3207 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
3208 application fees and membership dues:

3209 (i) as established by commission rules; and

3210 (ii) [~~which~~] that are collected from all members.

3211 (b) An application fee:

3212 (i) [~~shall~~] may not be less than \$4;

3213 (ii) shall be paid when the applicant applies for membership; and

3214 (iii) at the discretion of the private club, may be credited toward membership dues if
3215 the governing body approves the applicant as a member.

3216 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted
3217 to or use the private club premises as a guest only under the following conditions:

3218 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to

3219 host the guest into the private club:

3220 (A) an active member of the private club; or

3221 (B) a holder of a current visitor card;

3222 (ii) ~~each~~ a guest must be known by the guest's host based on a preexisting bonafide
3223 business or personal relationship with the host ~~[prior to]~~ before the guest's admittance to the
3224 private club;

3225 (iii) ~~each~~ a guest must be accompanied by the guest's host for the duration of the
3226 guest's visit to the private club;

3227 (iv) ~~each~~ a guest's host must remain on the private club premises for the duration of
3228 the guest's visit to the private club;

3229 (v) ~~each~~ a guest's host is responsible for the cost of ~~all~~ services extended to the
3230 guest;

3231 (vi) ~~each~~ a guest ~~[enjoys]~~ has only those privileges derived from the guest's host for
3232 the duration of the guest's visit to the private club;

3233 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

3234 (viii) an employee of the private club, while on duty, may not attempt to locate a
3235 member or current visitor card holder to serve as a host for a guest with whom the member or
3236 visitor card holder has no acquaintance based on a preexisting bonafide business or personal
3237 relationship prior to the guest's arrival at the private club; and

3238 (ix) a private club ~~[and its employees]~~ or an employee of the private club may not enter
3239 into an agreement or arrangement with a club member or holder of a current visitor card to
3240 indiscriminately host ~~[members]~~ a member of the general public into the private club as
3241 ~~[guests]~~ a guest.

3242 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3243 (i) the private club licensee is a class B private club; and

3244 (ii) the guest is a member of the same fraternal organization as the private club
3245 licensee.

3246 (6) ~~[Each]~~ A private club may, in its discretion, issue a visitor ~~[cards]~~ card to allow
3247 ~~[individuals]~~ an individual to enter and use the private club premises on a temporary basis
3248 under the following conditions:

3249 (a) ~~each~~ a visitor card shall be issued for a period not to exceed three weeks;

- 3250 (b) a fee of not less than \$4 shall be assessed for [~~each~~] a visitor card that is issued;
- 3251 (c) a visitor card [~~shall~~] may not be issued to a minor;
- 3252 (d) a holder of a visitor card may not host more than seven guests at one time;
- 3253 (e) [~~each~~] a visitor card issued shall include:
- 3254 (i) the visitor's full name and signature;
- 3255 (ii) the date the visitor card [~~was~~] is issued;
- 3256 (iii) the date the visitor card expires;
- 3257 (iv) the club's name; and
- 3258 (v) the serial number of the visitor card; and
- 3259 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor
- 3260 card on the private club premises; and
- 3261 (ii) the record described in Subsection (6)(f)(i) shall:
- 3262 (A) be available for inspection by the department; and
- 3263 (B) include:
- 3264 (I) the name of the person to whom the visitor card [~~was~~] is issued;
- 3265 (II) the date the visitor card [~~was~~] is issued;
- 3266 (III) the date the visitor card expires; and
- 3267 (IV) the serial number of the visitor card.
- 3268 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a
- 3269 patron to be admitted to or use the private club premises other than:
- 3270 (a) a member;
- 3271 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 3272 (c) a guest of:
- 3273 (i) a member; or
- 3274 (ii) a holder of a [~~current~~] valid visitor card.
- 3275 (8) (a) A minor may not be:
- 3276 (i) a member, officer, director, or trustee of a private club;
- 3277 (ii) issued a visitor card;
- 3278 (iii) admitted into, use, or be on the premises of [~~any~~] a lounge or bar area, as defined
- 3279 by commission rule, of [~~any~~] a private club except to the extent authorized under Subsection
- 3280 (8)(c)(ii);

- 3281 (iv) admitted into, use, or be on the premises of ~~any~~ a class D private club:
- 3282 (A) that operates as a sexually oriented business as defined by local ordinance; or
- 3283 (B) when a sexually oriented entertainer is performing on the premises; or
- 3284 (v) admitted into, use, or be on the premises of a class D private club except to the
- 3285 extent authorized under Subsections (8)(b) through (g).
- 3286 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
- 3287 club, a minor may be admitted into, use, or be on the premises of a class D private club under
- 3288 the following circumstances:
- 3289 (i) during ~~periods~~ a period when no alcoholic beverages are sold, served, otherwise
- 3290 furnished, or consumed on the premises, but in no event later than 1 p.m.;
- 3291 (ii) when accompanied at all times by a member or holder of a current visitor card who
- 3292 is the minor's parent, legal guardian, or spouse; and
- 3293 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
- 3294 service provider.
- 3295 (c) A ~~minor may be employed by a~~ class D private club may employ a minor on the
- 3296 premises of the private club if:
- 3297 (i) the parent or legal guardian of the minor owns or operates the class D private club;
- 3298 or
- 3299 (ii) the minor performs maintenance and cleaning services during the hours when the
- 3300 private club is not open for business.
- 3301 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
- 3302 admitted into, use, or be on the premises of a dance or concert hall if:
- 3303 (A) the dance or concert hall is located:
- 3304 (I) on the premises of a class D private club; or
- 3305 (II) on the property that immediately adjoins the premises of and is operated by a class
- 3306 D private club; and
- 3307 (B) the commission ~~has issued~~ issues the class D private club a permit to operate a
- 3308 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).
- 3309 (ii) If the dance or concert hall is located on the premises of a class D private club, a
- 3310 minor must be properly hosted in accordance with Subsection (5) by:
- 3311 (A) a member; or

- 3312 (B) a holder of a current visitor card.
- 3313 (iii) The commission may issue a minor dance or concert hall permit if:
- 3314 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:
- 3315 (I) not accessible to [~~minors~~] a minor;
- 3316 (II) clearly defined; and
- 3317 (III) separated from the dance or concert hall area by one or more walls, multiple floor
- 3318 levels, or other substantial physical barriers;
- 3319 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;
- 3320 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:
- 3321 (I) the dance or concert hall area; or
- 3322 (II) [~~any~~] an area of the private club accessible to a minor;
- 3323 (D) the private club maintains sufficient security personnel to prevent the passing of
- 3324 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~]
- 3325 area to:
- 3326 (I) the dance or concert hall area; or
- 3327 (II) [~~any~~] an area of the private club accessible to a minor;
- 3328 (E) there are one or more separate entrances, exits, and restroom facilities from the
- 3329 private club's lounge, bar, and alcoholic beverage consumption areas than for:
- 3330 (I) the dance or concert hall area; or
- 3331 (II) [~~any~~] an area accessible to a minor; and
- 3332 (F) the private club complies with any other restrictions imposed by the commission by
- 3333 rule.
- 3334 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 3335 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
- 3336 on the premises of a concert hall described in Subsection (8)(d)(i) if:
- 3337 (i) [~~all~~] the requirements of Subsection (8)(d) are met; and
- 3338 (ii) [~~all~~] signage, product, and dispensing equipment containing recognition of an
- 3339 alcoholic [~~beverages~~] beverage is not visible to the minor.
- 3340 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 3341 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 3342 a concert hall described in Subsection (8)(d)(i) if:

- 3343 (i) ~~aff~~ the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- 3344 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
- 3345 class D private club.
- 3346 (g) The commission may suspend or revoke a minor dance or concert permit issued to
- 3347 a class D private club and suspend or revoke the license of the class D private club if:
- 3348 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- 3349 (ii) the private club sells, serves, or otherwise furnishes an alcoholic ~~[beverages]~~
- 3350 beverage to a minor;
- 3351 (iii) the private club licensee or a supervisory or managerial level employee of the
- 3352 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
- 3353 on the basis of ~~[activities]~~ an activity that ~~[occurred]~~ occurs on:
- 3354 (A) the licensed premises; or
- 3355 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3356 premises of and is operated by the class D private club;
- 3357 (iv) there are three or more convictions of patrons of the private club under Title 58,
- 3358 Chapter 37, Utah Controlled Substances Act, based on activities that ~~[occurred]~~ occur on:
- 3359 (A) the licensed premises; or
- 3360 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3361 premises of and is operated by the class D private club;
- 3362 (v) there is more than one conviction:
- 3363 (A) of:
- 3364 (I) the private club licensee;
- 3365 (II) an employee of the private club licensee;
- 3366 (III) an entertainer contracted by the private club licensee; or
- 3367 (IV) a patron of the private club licensee; and
- 3368 (B) made on the basis of a lewd ~~[acts]~~ act or lewd entertainment prohibited by this title
- 3369 that ~~[occurred]~~ occurs on:
- 3370 (I) the licensed premises; or
- 3371 (II) the dance or concert hall that is located on property that immediately adjoins the
- 3372 premises of and is operated by the class D private club; or
- 3373 (vi) the commission finds acts or conduct contrary to the public welfare and morals

3374 involving lewd acts or lewd entertainment prohibited by this title that [~~occurred~~] occurs on:

3375 (A) the licensed premises; or

3376 (B) the dance or concert hall that is located on property that immediately adjoins the
3377 premises of and is operated by the class D private club.

3378 (h) Nothing in this Subsection (8) [~~shall prohibit~~] prohibits a class D private club from
3379 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or
3380 concert area located on the private club premises on days and times when the private club does
3381 not allow [~~minors~~] a minor into those areas.

3382 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
3383 more restrictive of a minor's admittance to, use of, or presence on the premises of [~~any~~] a
3384 private club.

3385 (9) (a) [~~Each~~] A private club shall maintain an expense ledger or record showing in
3386 detail all expenditures separated by payments for:

3387 (i) malt or brewed beverages;

3388 (ii) liquor;

3389 (iii) food;

3390 (iv) detailed payroll;

3391 (v) entertainment;

3392 (vi) rent;

3393 (vii) utilities;

3394 (viii) supplies; and

3395 (ix) [~~all~~] other expenditures.

3396 (b) [~~The~~] A private club shall keep a record required by this Subsection (9) [~~shall be~~]:

3397 (i) [~~kept~~] in a form approved by the department; and

3398 (ii) balanced each month.

3399 (c) [~~Each~~] An expenditure shall be supported by:

3400 (i) a delivery [~~tickets~~] ticket;

3401 (ii) [~~invoices~~] an invoice;

3402 (iii) a receipted [~~bills~~] bill;

3403 (iv) a canceled [~~checks~~] check;

3404 (v) a petty cash [~~vouchers~~] voucher; or

3405 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

3406 (d) [~~All invoices and receipted bills~~] An invoice or receipted bill for the current
3407 calendar or fiscal year documenting [~~purchases~~] a purchase made by the private club shall
3408 [~~also~~] be maintained.

3409 (10) (a) [~~Each~~] A private club shall maintain a minute book that is posted currently by
3410 the private club.

3411 (b) The minute book required by this Subsection (10) shall contain the minutes of [~~all~~]
3412 a regular [~~and~~] or special [~~meetings~~] meeting of the governing body.

3413 [~~(c) Membership lists shall also be maintained.~~]

3414 (c) A private club shall maintain a membership list.

3415 (11) (a) [~~Each~~] A private club shall maintain a current [~~copies~~] copy of the private
3416 club's current bylaws and current house rules.

3417 (b) [~~Changes~~] A change in the bylaws or house rules:

3418 (i) [~~are~~] is not effective unless submitted to the department within ten days after
3419 adoption; and

3420 (ii) [~~become~~] becomes effective 15 days after received by the department unless
3421 rejected by the department before the expiration of the 15-day period.

3422 (12) [~~Each~~] A private club shall maintain accounting and other records and documents
3423 as the department may require.

3424 (13) [~~Any~~] A private club or person acting for the private club, who knowingly forges,
3425 falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of the books~~] an
3426 entry in a book of account or other [~~documents~~] document of the private club licensee required
3427 to be made, maintained, or preserved by this title or the rules of the commission for the purpose
3428 of deceiving the commission [~~or~~], the department, or [~~any of their officials or employees~~] an
3429 official or employee of the commission or department, is subject to:

3430 (a) the suspension or revocation of the private club's license; and

3431 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3432 (14) (a) [~~Each~~] A private club licensee shall maintain and keep [~~all the records~~] a
3433 record required by this section and [~~all other books, records, receipts, and disbursements~~] a
3434 book, record, receipt, or disbursement maintained or used by the licensee, as the department
3435 requires, for a minimum period of three years.

3436 (b) ~~[All records, books, receipts, and disbursements are]~~ A record, book, receipt, or
3437 disbursement is subject to inspection by an authorized [representatives] representative of the
3438 commission and the department.

3439 (c) ~~[The]~~ A private club licensee shall allow the department, through ~~[its auditors or~~
3440 ~~examiners]~~ an auditor or examiner of the department, to audit ~~[all]~~ the records of the private
3441 club licensee at times the department considers advisable.

3442 (d) The department shall audit the records of the private club licensee at least once
3443 annually.

3444 (15) ~~[Each]~~ A private club licensee shall own or lease premises suitable for the private
3445 club's activities.

3446 (16) (a) A private club licensee may not maintain facilities in ~~[any]~~ a manner that
3447 barricades or conceals the private club licensee's operation.

3448 (b) ~~[Any]~~ A member of the commission, authorized department personnel, or ~~[any]~~ a
3449 peace officer shall, upon presentation of credentials, be admitted immediately to the private
3450 club and permitted without hindrance or delay to inspect completely the entire private club
3451 premises and ~~[all]~~ the books and records of the private club licensee, at any time during which
3452 ~~[the same are open]~~ the private club licensee is open for the transaction of business to its
3453 members.

3454 (17) ~~[Any public]~~ Public advertising related to a private club licensee by the following
3455 shall clearly identify a private club as being "a private club for members":

3456 (a) the private club licensee;

3457 (b) ~~[the employees or agents]~~ an employee or agent of the private club licensee; or

3458 (c) ~~[any]~~ a person under a contract or agreement with the private club licensee.

3459 (18) A private club licensee must have food available at all times when an alcoholic
3460 ~~[beverages are]~~ beverage is sold, served, or consumed on the premises.

3461 (19) (a) Liquor may not be purchased by a private club licensee except from a state
3462 ~~[stores]~~ store or package ~~[agencies]~~ agency.

3463 (b) Liquor purchased ~~[in accordance with Subsection (19)(a)]~~ from a state store or
3464 package agency may be transported by the private club licensee from the place of purchase to
3465 the licensed premises.

3466 (c) Payment for liquor shall be made in accordance with rules established by the

3467 commission.

3468 (20) A private club licensee may sell or provide ~~[any]~~ a primary spirituous liquor only
3469 in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
3470 dispensing system approved by the department in accordance with commission rules adopted
3471 under this title, except that:

3472 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3473 system if used as a secondary flavoring ingredient in a beverage subject to the following
3474 restrictions:

3475 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
3476 a primary spirituous liquor;

3477 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

3478 (iii) the private club licensee shall designate a location where flavorings are stored on
3479 the floor plan provided to the department; and

3480 (iv) ~~[all]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled
3481 "flavorings";

3482 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3483 system if used:

3484 (i) as a flavoring on ~~[desserts]~~ a dessert; and

3485 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
3486 dessert; and

3487 (c) ~~[each]~~ a private club patron may have no more than 2.75 ounces of spirituous liquor
3488 at a time before the private club patron.

3489 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
3490 exceed five ounces per glass or individual portion.

3491 (ii) An individual portion may be served to a patron in more than one glass as long as
3492 the total amount of wine does not exceed five ounces.

3493 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3494 Subsection (25)(c).

3495 (b) (i) Wine may be sold and served in ~~[containers]~~ a container not exceeding 1.5 liters
3496 at ~~[prices]~~ a price fixed by the commission to ~~[tables]~~ a table of four or more persons.

3497 (ii) Wine may be sold and served in ~~[containers]~~ a container not exceeding 750

3498 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
3499 persons.

3500 (c) A wine service may be performed and a service charge assessed by the private club
3501 licensee as authorized by commission rule for wine purchased at the private club.

3502 (22) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
3503 one liter at [~~prices~~] a price fixed by the commission.

3504 (b) A flavored malt beverage may be served in an original container not exceeding one
3505 liter at a price fixed by the commission.

3506 [~~(b)~~] (c) A service charge may be assessed by the private club licensee for heavy beer
3507 or a flavored malt beverage purchased at the private club.

3508 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]
3509 licensee may sell beer for on-premise consumption:

3510 (A) in an open container; and

3511 (B) on draft.

3512 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does
3513 not exceed two liters, except that beer may not be sold to an individual patron in a size of
3514 container that exceeds one liter.

3515 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to
3516 Subsection (23)(a):

3517 (A) may do so without obtaining a separate on-premise beer retailer license from the
3518 commission; and

3519 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
3520 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
3521 restrictions are inconsistent with or less restrictive than the operational restrictions under this
3522 chapter.

3523 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3524 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the
3525 private club's:

3526 (A) state liquor license; and

3527 (B) alcoholic beverage license issued by the local authority.

3528 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in

3529 ~~[any]~~ a place other than as designated in the private club licensee's application, unless the
3530 private club licensee first applies for and receives approval from the department for a change of
3531 location within the private club.

3532 (25) (a) A patron may only make an alcoholic beverage ~~[purchases]~~ purchase in the
3533 private club from and be served by a person employed, designated, and trained by the private
3534 club licensee to sell, dispense, and serve an alcoholic ~~[beverages]~~ beverage.

3535 (b) Notwithstanding Subsection (25)(a), a patron who ~~[has purchased]~~ purchases
3536 bottled wine from an employee of the private club ~~[or has carried]~~ licensee or carries bottled
3537 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve
3538 wine from the bottle to the patron or others at the patron's table.

3539 (c) ~~[Each]~~ A private club patron may have no more than two alcoholic beverages of
3540 any kind at a time before the private club patron.

3541 (26) The liquor storage area shall remain locked at all times other than those hours and
3542 days when liquor sales and service are authorized by law.

3543 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
3544 private club during the following days or hours:

3545 (i) until after the polls are closed on the day of ~~[any]~~ a:

3546 (A) regular general election;

3547 (B) regular primary election; or

3548 (C) statewide special election;

3549 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
3550 service district, or school election, but only:

3551 (A) within the boundaries of the municipality, local district, special service district, or
3552 school district; and

3553 (B) if required by local ordinance; and

3554 (iii) on any other day after 1 a.m. and before 10 a.m.

3555 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
3556 Licenses, for on-premise beer licenses.

3557 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
3558 for one hour after the private club ceases the sale and service of an alcoholic ~~[beverages]~~
3559 beverage during which time a patron of the private club may finish consuming:

- 3560 (A) [~~any~~] a single drink containing spirituous liquor;
- 3561 (B) a single serving of wine not exceeding five ounces;
- 3562 (C) a single serving of heavy beer; [~~or~~]
- 3563 (D) a single serving of beer not exceeding 26 ounces[~~]; or~~
- 3564 (E) a single serving of a flavored malt beverage.
- 3565 (ii) A private club is not required to remain open:
- 3566 (A) after all patrons have vacated the premises; or
- 3567 (B) during an emergency.
- 3568 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
- 3569 allow a patron to remain on the premises of the private club to consume an alcoholic
- 3570 [~~beverages~~] beverage on the premises.
- 3571 (28) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
- 3572 otherwise furnished to [~~any~~] a:
- 3573 (a) minor;
- 3574 (b) person actually, apparently, or obviously intoxicated;
- 3575 (c) known habitual drunkard; or
- 3576 (d) known interdicted person.
- 3577 (29) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 3578 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 3579 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 3580 of the alcoholic beverage to the private club licensee.
- 3581 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 3582 over consumption or intoxication.
- 3583 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 3584 whether served as a single drink or in conjunction with another alcoholic beverage.
- 3585 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 3586 hours of the private club's business day such as a "happy hour."
- 3587 (f) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 3588 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 3589 (g) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
- 3590 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].

3591 (h) A private club licensee may not engage in a promotion involving or offering free
3592 alcoholic beverages to patrons of the private club.

3593 (30) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
3594 the private club licensee by:

3595 (a) the private club licensee; or

3596 (b) [~~any~~] an employee or agent of the private club licensee.

3597 (31) (a) A person may not bring onto the premises of a private club licensee [~~any~~] an
3598 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
3599 discretion of the licensee, bottled wine onto the premises of [~~any~~] a private club licensee for
3600 on-premise consumption.

3601 (b) Except bottled wine under Subsection (31)(a), a private club [~~or its officers,~~
3602 ~~managers, employees, or agents~~] licensee or an officer, manager, employee, or agent of a
3603 private club licensee may not allow:

3604 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for
3605 consumption on the private club premises; or

3606 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection
3607 (31)(b)(i) on the premises of the private club.

3608 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
3609 or other representative of the private club licensee upon entering the private club.

3610 (d) A wine service may be performed and a service charge assessed by the private club
3611 licensee as authorized by commission rule for wine carried in by a patron.

3612 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]
3613 licensee or an employee of the private club licensee may not permit a patron of the private club
3614 to carry from the private club premises an open container that:

3615 (i) is used primarily for drinking purposes; and

3616 (ii) contains [~~any~~] an alcoholic beverage.

3617 (b) A patron may remove the unconsumed contents of a bottle of wine if before
3618 removal, the bottle [~~has been~~] is recorked or recapped.

3619 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee
3620 to sell, dispense, or handle [~~any~~] an alcoholic beverage.

3621 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be

3622 employed by a class A or C private club licensee to enter the sale at a cash register or other
3623 sales recording device.

3624 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
3625 by or be on the premises of ~~[any]~~ a class D private club.

3626 (d) A minor may not be employed to work in ~~[any]~~ a lounge or bar area of ~~[any]~~ a class
3627 A, B, or C private club licensee.

3628 (34) An employee of a private club licensee, while on duty, may not:

3629 (a) consume an alcoholic beverage; or

3630 (b) be intoxicated.

3631 ~~[(35) (a) A private club may not charge for the service or supply of glasses, ice, or~~
3632 ~~mixers unless:]~~

3633 ~~[(i) the charges are fixed in the house rules of the club; and]~~

3634 ~~[(ii) a copy of the house rules is kept on the club premises and available at all times for~~
3635 ~~examination by patrons of the club.]~~

3636 ~~[(b) A charge or fee made in connection with the sale, service, or consumption of~~
3637 ~~liquor may be stated in food or alcoholic beverage menus including:]~~

3638 (35) A private club licensee shall have available on the premises for a patron to review
3639 at the time that the customer requests it, a written alcoholic beverage price list or a menu
3640 containing the price of an alcoholic beverage sold or served by the private club licensee
3641 including:

3642 ~~[(i)]~~ (a) a set-up charge;

3643 ~~[(ii)]~~ (b) a service charge; or

3644 ~~[(iii)]~~ (c) a chilling fee.

3645 (36) ~~[Each]~~ A private club licensee shall display in a prominent place in the private
3646 club:

3647 (a) the private club license that is issued by the department;

3648 (b) a list of the types and brand names of liquor being served through its calibrated
3649 metered dispensing system; and

3650 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3651 drugs is a serious crime that is prosecuted aggressively in Utah."

3652 (37) A private club licensee may not on the premises of the private club:

3653 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3654 Chapter 10, Part 11, Gambling;

3655 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3656 Part 11, Gambling; or

3657 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3658 the risking of something of value for a return or for an outcome when the return or outcome is
3659 based upon an element of chance, excluding the playing of an amusement device that confers
3660 only an immediate and unrecorded right of replay not exchangeable for value.

3661 (38) (a) A private club licensee may not close or cease operation for a period longer
3662 than 240 hours, unless:

3663 (i) the private club licensee notifies the department in writing at least seven days before
3664 the ~~[closing]~~ day on which the private club licensee closes or ceases operation; and

3665 (ii) the closure or cessation of operation is first approved by the department.

3666 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, ~~[immediate~~
3667 ~~notice of closure shall be made to]~~ the private club licensee shall immediately notify the
3668 department by telephone.

3669 (c) (i) The department may authorize a closure or cessation of operation for a period
3670 not to exceed 60 days.

3671 (ii) The department may extend the initial period an additional 30 days upon:

3672 (A) written request of the private club; and ~~[upon]~~

3673 (B) a showing of good cause.

3674 (ii) A closure or cessation of operation may not exceed a total of 90 days without
3675 commission approval.

3676 (d) The notice required by Subsection (38)(a) shall include:

3677 (i) the dates of closure or cessation of operation;

3678 (ii) the reason for the closure or cessation of operation; and

3679 (iii) the date on which the private club licensee will reopen or resume operation.

3680 (e) Failure of the private club licensee to provide notice and to obtain department
3681 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
3682 automatic forfeiture of:

3683 (i) the private club license; and

3684 (ii) the unused portion of the private club license fee for the remainder of the license
3685 year effective immediately.

3686 (f) Failure of the private club licensee to reopen or resume operation by the approved
3687 date [~~shall result~~] results in an automatic forfeiture of:

3688 (i) the private club license; and

3689 (ii) the unused portion of the [~~club's~~] private club license fee for the remainder of the
3690 license year.

3691 (39) A private club license may not be transferred from one location to another person,
3692 without prior written approval of the commission.

3693 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
3694 attempt in any way to dispose of the private club license to [~~any other~~] another person, whether
3695 for monetary gain or not.

3696 (b) A private club license has no monetary value for the purpose of any type of
3697 disposition.

3698 (41) A private club licensee or an employee of the private club licensee may not
3699 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
3700 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3701 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3702 58-37-2; or

3703 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3704 Section 58-37a-3.

3705 Section 39. Section **32A-7-101** is amended to read:

3706 **32A-7-101. Issuance of single event permits -- Limitations.**

3707 (1) The commission may issue a single event permit to any of the following that is
3708 conducting a convention, civic, or community enterprise, a bona fide:

3709 (a) partnership;

3710 (b) corporation;

3711 (c) limited liability company;

3712 (d) church;

3713 (e) political organization;

3714 (f) incorporated association;

3715 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in
3716 Subsections (1)(a) through (f);

3717 (h) state agency; or

3718 (i) political subdivision of the state including:

3719 (i) a county; or

3720 (ii) a municipality.

3721 (2) ~~[The]~~ A single event permit may authorize:

3722 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and
3723 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
3724 is otherwise prohibited by this title; and

3725 (b) the storage, sale, service, and consumption of beer at the same event for the period
3726 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)
3727 for the single event permit.

3728 (3) The commission may not issue more than four single event permits in any one
3729 calendar year to the same:

3730 (a) partnership;

3731 (b) corporation;

3732 (c) limited liability company;

3733 (d) church;

3734 (e) political organization;

3735 (f) incorporated association;

3736 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in
3737 Subsections (3)(a) through (f);

3738 (h) state agency; or

3739 (i) political subdivision of the state including:

3740 (i) a county; or

3741 (ii) a municipality.

3742 (4) (a) The 600 foot and 200 foot proximity ~~[limitations to educational, religious, and~~
3743 ~~recreational facilities]~~ requirements in relation to a community location that are applicable to a
3744 state ~~[stores]~~ store, package ~~[agencies]~~ agency, ~~[and licensees]~~ or licensee, do not apply to a
3745 single event ~~[permits]~~ permit.

3746 (b) [~~Nothing~~] Notwithstanding Subsection (4)(a), nothing in this section[~~, however,~~]
 3747 prevents the commission from considering the proximity of [~~any~~] an educational, religious, or
 3748 recreational facility, or any other relevant factor in deciding whether to [~~grant~~] issue a single
 3749 event permit.

3750 Section 40. Section **32A-7-106** is amended to read:

3751 **32A-7-106. Operational restrictions.**

3752 (1) (a) [~~Any~~] An organization granted a single event permit and [~~any~~] a person
 3753 involved in the storage, sale, or service of an alcoholic [~~beverages~~] beverage at the event for
 3754 which the permit is issued, shall abide by:

3755 (i) this title;

3756 (ii) the rules of the commission; and

3757 (iii) the special conditions and requirements provided in this section.

3758 (b) Failure to comply with Subsection (1)(a) by an organization or person described in
 3759 Subsection (1)(a):

3760 (i) may result in:

3761 (A) an immediate revocation of the single event permit;

3762 (B) forfeiture of the surety bond; and

3763 (C) immediate seizure of [~~all~~] an alcoholic [~~beverages~~] beverage present at the event;

3764 and

3765 (ii) disqualifies the organization from applying [~~for a single event permit under this~~
 3766 ~~chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special~~
 3767 ~~Event Beer Permits,~~] for a period of three years from the date of revocation of the permit[:] for:

3768 (A) a single event permit under this chapter; or

3769 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
 3770 Event Beer Permits.

3771 (c) [~~Any~~] An alcoholic [~~beverages~~] beverage seized under this Subsection (1) shall be
 3772 returned to the organization after the event if forfeiture proceedings are not instituted under
 3773 Section 32A-13-103.

3774 (2) Special conditions and requirements for a single event [~~permittees~~] permittee
 3775 include the following:

3776 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of an alcoholic

3777 [~~beverages~~] beverage at the event must do so under the supervision and direction of the
3778 permittee.

3779 (ii) [~~All persons~~] A person involved in the sale or service of an alcoholic [~~beverages~~]
3780 beverage at the event may not, while on duty:

3781 (A) consume an alcoholic beverage; or

3782 (B) be intoxicated.

3783 (b) (i) [~~All~~] A permittee shall purchase liquor stored, sold, served, and consumed at the
3784 event [~~shall be purchased by the permittee~~] from a state store or package agency.

3785 [~~(ii) All beer purchased by the permittee shall be purchased from:~~]

3786 (ii) The permittee shall purchase beer from:

3787 (A) a licensed beer wholesaler; or

3788 (B) a licensed beer retailer.

3789 (iii) [~~All~~] An alcoholic [~~beverages are~~] beverage is considered under the control of the
3790 permittee during the event.

3791 (iv) [~~Attendees~~] An attendee of the event may not bring [~~any~~] an alcoholic [~~beverages~~]
3792 beverage onto the premises of the event.

3793 (c) A permittee may not charge more than the maximum amount set forth in the permit
3794 for [~~any~~] an alcoholic beverage.

3795 (d) [~~Each~~] A permittee shall post in a prominent place in the area in which an alcoholic
3796 [~~beverages are being~~] beverage is sold, served, and consumed, a copy of the permit, together
3797 with a list of the operational restrictions and requirements of a single event [~~permittees~~]
3798 permittee set forth in this section.

3799 (e) [~~Alcoholic beverages~~] An alcoholic beverage purchased for the event may not be
3800 stored, sold, served, or consumed in [~~any~~] a location other than that described in the application
3801 and designated on the permit unless the permittee first applies for and receives approval from
3802 the commission for a change of location.

3803 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
3804 quantity not to exceed one ounce per beverage except that additional spirituous liquor may be
3805 used in a beverage if:

3806 (A) used as a secondary flavoring ingredient;

3807 (B) used in conjunction with the primary spirituous liquor;

- 3808 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and
3809 (D) [~~each~~] an attendee may have no more than 2.75 ounces of spirituous liquor at a
3810 time before the attendee.
- 3811 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
3812 system.
- 3813 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
3814 not exceed five ounces per glass or individual portion.
- 3815 (B) An individual portion may be served to an attendee in more than one glass as long
3816 as the total amount of wine does not exceed five ounces.
- 3817 (C) An individual portion of wine is considered to be one alcoholic beverage under
3818 Subsection (2)(p).
- 3819 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at
3820 [~~prices~~] a price fixed by the commission.
- 3821 (iii) A wine service may be performed and a service charge assessed by the single event
3822 permittee as authorized by commission rule for wine purchased at the event.
- 3823 (h) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding
3824 one liter at [~~prices~~] a price fixed by the commission.
- 3825 (ii) A flavored malt beverage may be served in an original container not exceeding one
3826 liter at a price fixed by the commission.
- 3827 [~~(ii)~~] (iii) A service charge may be assessed by [~~the~~] a single event permittee as
3828 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
3829 event.
- 3830 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:
3831 (A) in an open container; and
3832 (B) on draft.
- 3833 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
3834 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
3835 container that exceeds one liter.
- 3836 (j) (i) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
3837 consumed between the hours of 1 a.m. and 10 a.m.
- 3838 (ii) This Subsection (2)(j) does not preclude a local authority from being more

3839 restrictive with respect to the hours of sale, service, or consumption of an alcoholic [~~beverages~~]
3840 beverage at a temporary single event.

3841 (k) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
3842 furnished until after the polls are closed on the day of [~~any~~] a:

- 3843 (i) regular general election;
3844 (ii) regular primary election; or
3845 (iii) statewide special election.

3846 (l) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
3847 furnished to [~~any~~] a:

- 3848 (i) minor;
3849 (ii) person actually, apparently, or obviously intoxicated;
3850 (iii) known habitual drunkard; or
3851 (iv) known interdicted person.

3852 (m) (i) (A) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

3853 (B) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

3854 (ii) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
3855 of the alcoholic beverage to the permittee.

3856 (iii) An alcoholic beverage may not be sold at a price that encourages over
3857 consumption or intoxication.

3858 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
3859 certain hours of the day of the permitted event.

3860 (v) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
3861 served for the price of a single alcoholic beverage [~~is prohibited~~].

3862 (vi) The permittee may not engage in a public promotion involving or offering free
3863 alcoholic beverages to the general public.

3864 (n) A single event permittee and its employees may not permit an attendee to carry
3865 from the premises an open container that:

- 3866 (i) is used primarily for drinking purposes; and
3867 (ii) contains [~~any~~] an alcoholic beverage.

3868 (o) A minor may not sell, serve, dispense, or handle [~~any~~] an alcoholic beverage at the
3869 event.

3870 (p) ~~[Each]~~ An attendee may have no more than one alcoholic beverage of any kind at a
3871 time before the patron.

3872 (3) The permittee shall maintain an expense and revenue ledger or record showing:

3873 (a) expenditures made for liquor and beer, set-ups, and other ingredients and

3874 components of an alcoholic ~~[beverages]~~ beverage; and

3875 (b) the revenue from the sale of an alcoholic ~~[beverages]~~ beverage.

3876 (4) A single event permit may not be transferred.

3877 (5) A single event permittee may not on the premises serviced by the single event

3878 permittee:

3879 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,

3880 Chapter 10, Part 11, Gambling;

3881 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

3882 Part 11, Gambling; or

3883 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires

3884 the risking of something of value for a return or for an outcome when the return or outcome is

3885 based upon an element of chance, excluding the playing of an amusement device that confers

3886 only an immediate and unrecorded right of replay not exchangeable for value.

3887 (6) A single event permittee or an employee of the single event permittee may not

3888 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled

3889 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3890 (a) sell, distribute, possess, or use a controlled substance, as defined in Section

3891 58-37-2; or

3892 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in

3893 Section 58-37a-3.

3894 Section 41. Section **32A-8-101** is amended to read:

3895 **32A-8-101. Commission's power to grant licenses -- Limitations.**

3896 (1) The commission may issue an alcoholic beverage manufacturing ~~[licenses to~~

3897 ~~manufacturers whose businesses are]~~ license to a manufacturer whose business in this state is

3898 located in this state for the manufacture, storage, and sale of alcoholic beverages for each type

3899 of license provided by this chapter.

3900 (2) The type of manufacturing licenses issued under this chapter are known as:

- 3901 (a) a winery [~~licenses~~] license;
- 3902 (b) a distillery [~~licenses~~] license; and
- 3903 (c) a brewery [~~licenses~~] license.
- 3904 (3) (a) A person may not manufacture [~~any~~] an alcoholic beverage unless an alcoholic
- 3905 beverage manufacturing license [~~has been~~] is issued by the commission.
- 3906 (b) A separate license is required for each place of manufacture, storage, and sale of an
- 3907 alcoholic [~~beverages~~] beverage.
- 3908 (c) Violation of this Subsection (3) is a class B misdemeanor.
- 3909 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are~~] is not required to be licensed
- 3910 under this chapter. [~~However, they~~]
- 3911 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
- 3912 the department before selling or delivering:
- 3913 (i) beer to a licensed beer [~~wholesalers~~] wholesaler in this state[~~, or~~];
- 3914 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a
- 3915 military installation; or
- 3916 (iii) if a small brewer, beer to a licensed beer [~~wholesalers or retailers~~] wholesaler or
- 3917 retailer in this state.
- 3918 [~~(a)~~] (c) A brewer seeking a certificate of approval shall file a written application with
- 3919 the department, in a form prescribed by the department. The application shall be accompanied
- 3920 by:
- 3921 (i) a nonrefundable \$50 application fee;
- 3922 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
- 3923 granted;
- 3924 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
- 3925 Firearms to brew beer [~~and~~], heavy beer [~~products~~], or a flavored malt beverage; and
- 3926 (iv) any other information or documents the department may require.
- 3927 [~~(b) Each~~] (d) (i) An application shall be signed and verified by oath or affirmation by:
- 3928 (A) a partner if the brewer is a partnership[~~;~~]; or [~~by~~]
- 3929 (B) an executive officer, manager, or person specifically authorized by a corporation or
- 3930 limited liability company to sign the application [~~to which shall be attached~~].
- 3931 (ii) The brewer filing an application shall attach to the application written evidence of

3932 [~~this~~] the authority of the person described in Subsection (4)(d)(i) to sign the application.

3933 [~~(e)~~] (e) (i) All certificates of approval expire on December 31 of each year.

3934 (ii) [~~Brewers~~] A brewer desiring to renew [~~their certificates~~] its certificate shall submit
3935 a renewal fee of \$200, and a completed renewal application to the department no later than
3936 November 30 of the year the certificate expires.

3937 (iii) Failure to meet the renewal requirements [~~shall result~~] results in an automatic
3938 forfeiture of the certificate effective on the date the existing certificate expires.

3939 (iv) [~~Renewal applications~~] A renewal application shall be in a form prescribed by the
3940 department.

3941 (5) The commission may prescribe by policy, directive, or rule, consistent with this
3942 title, the general operational requirements of licensees relating to:

3943 (a) physical facilities;

3944 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

3945 (c) storage and sales quantity limitations; and

3946 (d) other matters considered appropriate by the commission.

3947 Section 42. Section **32A-8-401** is amended to read:

3948 **32A-8-401. Authority and operational restrictions.**

3949 (1) A brewery license allows the licensee to:

3950 (a) manufacture, brew, store, transport, or export beer [~~and~~], heavy beer, and flavored
3951 malt beverages;

3952 (b) sell heavy beer [~~to~~] and, on or after October 1, 2008, a flavored malt beverage to:

3953 (i) the department[~~, to~~];

3954 (ii) a military [installations,] installation; and [~~to~~]

3955 (iii) an out-of-state [customers] customer;

3956 (c) sell beer to a licensed [wholesalers] wholesaler;

3957 (d) in the case of a small brewer, sell in accordance with Subsection (5), beer
3958 manufactured by the brewer to:

3959 (i) a licensed retailer;

3960 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,
3961 Single Event Permits; and

3962 (iii) a holder of a temporary retail beer permit issued by the commission for a

3963 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;
3964 and

3965 (e) warehouse on its premises an alcoholic [~~beverages which~~] beverage that it
3966 manufactures or purchases for manufacturing purposes.

3967 (2) If considered necessary, the commission or department may:

3968 (a) require certain alterations to the plant, equipment, or premises;

3969 (b) require the alteration or removal of any unsuitable alcoholic beverage-making
3970 equipment or material;

3971 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary
3972 and working conditions of any plant, premises, and equipment; or

3973 (d) demand that all books, records, or data pertaining to the materials and ingredients
3974 used in the manufacture of alcoholic products are available to the commission or department
3975 upon request.

3976 (3) A brewery licensee may not sell [~~heavy beer~~] the following to any person within the
3977 state except the department [~~and~~] or a military [installations:] installation:

3978 (a) heavy beer; or

3979 (b) on or after October 1, 2008, a flavored malt beverage.

3980 (4) A brewery licensee may not permit any beer, heavy beer, or flavored malt beverage
3981 to be consumed on its premises, except under the circumstances described in this Subsection
3982 (4).

3983 (a) A brewer may allow its off-duty employees to consume beer, heavy beer, or a
3984 flavored malt beverage on its premises without charge.

3985 (b) A brewery licensee may allow any person who can lawfully buy [~~beer or malted~~
3986 ~~beverages~~] the following for wholesale or retail distribution to consume bona fide samples of
3987 its product on the brewery premises[-]:

3988 (i) beer;

3989 (ii) heavy beer; or

3990 (iii) on or after October 1, 2008, a flavored malt beverage.

3991 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility
3992 allowing consumption on premises of beer in bottles or draft as long as food is also available.

3993 (ii) [~~Any~~] A retail facility located on the premises of a brewery licensee shall be

3994 operated or supervised by the brewer.

3995 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the
3996 requirements of Sections 32A-10-101 and 32A-10-102.

3997 (5) (a) [~~Every~~] A small brewer licensee located in this state, and [~~every~~] a small brewer
3998 located outside this state that obtains a certificate of approval from the department to sell beer
3999 in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer
4000 directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse
4001 facility located in this state for the storage of all beer to be sold to any retailer licensee or
4002 permittee.

4003 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

4004 (i) [~~was~~] is manufactured by the small brewer; and

4005 (ii) [~~has first been~~] is first placed in the small brewer's warehouse facility in this state.

4006 (c) (i) [~~Each~~] A small brewer warehouse shall maintain complete beer importation,
4007 inventory, tax, distribution, sales records, and other documents as the department and State Tax
4008 Commission may require.

4009 (ii) The records and documents described in Subsection (5)(c)(i) are subject to
4010 inspection by:

4011 (A) the department; and

4012 (B) the State Tax Commission.

4013 (iii) [~~Any~~] A small brewer or person acting for the small brewer, who knowingly
4014 forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the records or documents~~] a
4015 record or document required to be made, maintained, or preserved by this title or the rules of
4016 the commission, or State Tax Commission for the purpose of deceiving the commission,
4017 department, State Tax Commission, or any of their officials or employees, is subject to:

4018 (A) the immediate suspension or revocation of:

4019 (I) the brewery license; or

4020 (II) the certificate of approval; and

4021 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

4022 Section 43. Section **32A-8-501** is amended to read:

4023 **32A-8-501. Commission's power to grant licenses.**

4024 (1) The commission may issue a local industry representative [~~licenses~~] license to an

4025 individual [~~residents~~] resident of Utah, Utah [~~partnerships~~] partnership, Utah [~~corporations~~]
4026 corporation, [~~and~~] or Utah limited liability [~~companies~~] company who [~~are~~] is employed by a
4027 manufacturer, supplier, or importer, whether compensated by salary, commission, or [~~any~~
4028 ~~other~~] another means, to represent liquor[~~, wine, or heavy beer~~] products with the department,
4029 package agencies, licensees, and permittees under this title[-] including:

4030 (a) wine;

4031 (b) heavy beer; or

4032 (c) on or after October 1, 2008, a flavored malt beverage.

4033 (2) (a) Before [~~any Utah resident, Utah partnership, Utah corporation, or Utah limited~~
4034 ~~liability company~~] a person described in Subsection (1) may represent [~~a liquor, wine, or heavy~~
4035 ~~beer~~] an alcoholic product of a manufacturer, supplier, or importer, the [~~resident, partnership,~~
4036 ~~or corporation~~] person shall [~~first~~] obtain a local industry representative license from the
4037 commission as provided in this part.

4038 (b) A violation of this Subsection (2) is a class B misdemeanor.

4039 (3) [~~Individual employees or agents~~] An individual employee or agent of a local
4040 industry representative [~~licensees are~~] licensee is not required to be separately licensed.

4041 (4) A local industry representative may represent more than one manufacturer,
4042 supplier, or importer at a time.

4043 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
4044 representative to represent its products with the department, package agencies, licensees, or
4045 permittees.

4046 (b) [~~Any~~] An employee or agent of the manufacturer, supplier, or importer who is not a
4047 local industry representative while in the state shall first register with the department, on forms
4048 provided by the department, before representing alcoholic beverage products with the
4049 department, package agencies, licensees, and permittees of the department.

4050 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and [~~their~~] its
4051 employees and agents are subject to the same operational restrictions of this part and Chapter
4052 12, Criminal Offenses.

4053 Section 44. Section **32A-8-503** is amended to read:

4054 **32A-8-503. Qualifications.**

4055 (1) (a) The commission may not grant a local industry representative license to [~~any~~] a

4056 person who has been convicted of:

4057 (i) a felony under any federal or state law;

4058 (ii) any violation of any federal or state law or local ordinance concerning the sale,
4059 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
4060 beverages;

4061 (iii) any crime involving moral turpitude; or

4062 (iv) on two or more occasions within the five years before the day on which the license
4063 is granted, driving under the influence of alcohol, any drug, or the combined influence of
4064 alcohol and any drug.

4065 (b) In the case of a partnership, corporation, or limited liability company the
4066 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
4067 offense described in Subsection (1)(a):

4068 (i) a partner;

4069 (ii) a managing agent;

4070 (iii) a manager;

4071 (iv) an officer;

4072 (v) a director;

4073 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4074 the applicant corporation; or

4075 (vii) a member who owns at least 20% of the applicant limited liability company.

4076 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
4077 supervisory or managerial capacity for the local industry representative has been convicted of
4078 any offense described in Subsection (1)(a).

4079 (2) The commission may immediately suspend or revoke the local industry
4080 representative license if after the day on which the local industry representative license is
4081 granted, a person described in Subsection (1)(a), (b), or (c):

4082 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
4083 to the license being granted; or

4084 (b) on or after the day on which the license is granted:

4085 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

4086 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

4087 combined influence of alcohol and any drug; and

4088 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
4089 influence of alcohol and any drug within five years before the day on which the person is
4090 convicted of the offense described in Subsection (2)(b)(ii)(A).

4091 (3) The director may take emergency action by immediately suspending the operation
4092 of the local industry representative license according to the procedures and requirements of
4093 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
4094 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

4095 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
4096 or

4097 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
4098 any drug, or the combined influence of alcohol and any drug; and

4099 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
4100 influence of alcohol and any drug within five years before the day on which the person is
4101 arrested on a charge described in Subsection (3)(b)(i).

4102 (4) (a) (i) The commission may not grant a local industry representative license to [any]
4103 an individual who has had any type of license, agency, or permit issued under this title revoked
4104 within the last three years.

4105 (ii) The commission may not grant a local industry representative license to an
4106 applicant that is a partnership, corporation, or limited liability company if any partner,
4107 managing agent, manager, officer, director, stockholder who holds at least 20% of the total
4108 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of
4109 an applicant limited liability company is or was:

4110 (A) a partner or managing agent of any partnership that had any type of license, agency,
4111 or permit issued under this title revoked within the last three years;

4112 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
4113 of the total issued and outstanding stock of any corporation that had any type of license,
4114 agency, or permit issued under this title revoked within the last three years; or

4115 (C) a manager or member who owns or owned at least 20% of any limited liability
4116 company that had any type of license, agency, or permit issued under this title revoked within
4117 the last three years.

4118 (b) An applicant that is a partnership, corporation, or limited liability company may not
4119 be granted a local industry representative license if any of the following had any type of
4120 license, agency, or permit issued under this title revoked while acting in that person's individual
4121 capacity within the last three years:

4122 (i) ~~any~~ a partner or managing agent of the applicant partnership;

4123 (ii) ~~any~~ a managing agent, officer, director, or stockholder who holds at least 20% of
4124 the total issued and outstanding stock of the applicant corporation; or

4125 (iii) ~~any~~ a manager or member who owns at least 20% of the applicant limited
4126 liability company.

4127 (c) A person acting in an individual capacity may not be granted an industry
4128 representative license if that person was:

4129 (i) a partner or managing agent of a partnership that had any type of license, agency, or
4130 permit issued under this title revoked within the last three years;

4131 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4132 total issued and outstanding stock of a corporation that had any type of license, agency, or
4133 permit issued under this title revoked within the last three years; or

4134 (iii) a manager or member who owned at least 20% of a limited liability company that
4135 had any type of license, agency, or permit issued under this title revoked within the last three
4136 years.

4137 (5) (a) The commission may not grant a local industry representative license to a
4138 minor.

4139 (b) The commission may not grant a local industry representative license to an
4140 applicant that is a partnership, corporation, or limited liability company if any of the following
4141 is a minor:

4142 (i) a partner or managing agent of the applicant partnership;

4143 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4144 total issued and outstanding stock of the applicant corporation; or

4145 (iii) a manager or member who owns at least 20% of the applicant limited liability
4146 company.

4147 (6) Except as otherwise provided, the commission may not grant a local industry
4148 representative license to:

- 4149 (a) [~~any~~] a holder of any retail license issued under this title that sells;
- 4150 (i) spirituous liquor[;];
- 4151 (ii) wine[~~, or~~];
- 4152 (iii) heavy beer; or
- 4153 (iv) on or after October 1, 2008, a flavored malt beverage;
- 4154 (b) [~~any~~] an employee or agent of any retail license issued under this title that sells;
- 4155 (i) spirituous liquor[;];
- 4156 (ii) wine[~~, or~~];
- 4157 (iii) heavy beer; or
- 4158 (iv) on or after October 1, 2008, a flavored malt beverage; or
- 4159 (c) [~~any~~] an individual, partnership, corporation, or limited liability company who
- 4160 holds any interest in any retail license issued under this title that sells;
- 4161 (i) spirituous liquor[;];
- 4162 (ii) wine[~~, or~~];
- 4163 (iii) heavy beer; or
- 4164 (iv) on or after October 1, 2008, a flavored malt beverage.

4165 (7) If [~~any~~] an individual, partnership, corporation, or limited liability company to
 4166 whom a local industry representative license has been issued under this part no longer
 4167 possesses the qualifications required by this title for obtaining that license, the commission
 4168 may suspend or revoke that license.

4169 Section 45. Section **32A-8-505** is amended to read:

4170 **32A-8-505. Operational restrictions.**

4171 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
 4172 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
 4173 state, shall abide by the conditions and requirements set forth in this section.

4174 (b) If [~~any~~] a person listed in Subsection (1)(a) knowingly violates or fails to comply
 4175 with the conditions and requirements set forth in this section:

4176 (i) [~~such~~] the violation or failure to comply may result in:

4177 (A) a suspension or revocation of the license; or

4178 (B) other disciplinary action taken against individual employees or agents of the
 4179 licensee; and

4180 (ii) the commission may order the removal of the manufacturer's, supplier's, or
4181 importer's products from the department's sales list and a suspension of the department's
4182 purchase of those products for a period determined by the commission if the manufacturer,
4183 supplier, or importer:

4184 (A) directly committed the violation; or

4185 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
4186 engage in the violation.

4187 (2) A local industry representative licensee, employee or agent of the licensee, or
4188 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
4189 state:

4190 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

4191 (i) assist the department in:

4192 (A) ordering, shipping, and delivering merchandise;

4193 (B) providing new product notification;

4194 (C) obtaining listing and delisting information;

4195 (D) receiving price quotations;

4196 (E) providing product sales analysis;

4197 (F) conducting shelf management; and

4198 (G) conducting educational seminars; and

4199 (ii) for the purpose of acquiring new listings:

4200 (A) solicit orders from the department; and

4201 (B) submit to the department price lists and samples of the products of the
4202 manufacturer, supplier, or importer;

4203 (b) may not sell any liquor[~~, wine, or heavy beer~~] within the state except to the
4204 department and military installations[;] including:

4205 (i) wine;

4206 (ii) heavy beer; or

4207 (iii) on or after October 1, 2008, a flavored malt beverage;

4208 (c) may not ship or transport, or cause to be shipped or transported, into this state or
4209 from one place to another within this state any liquor[;] including:

4210 (i) wine[~~, or~~];

- 4211 (ii) heavy beer; or
- 4212 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4213 (d) may not sell or furnish any liquor[~~, wine, or heavy beer~~] to any person within this
- 4214 state other than to the department and military installations[;] including:
- 4215 (i) wine;
- 4216 (ii) heavy beer; or
- 4217 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4218 (e) except as otherwise provided, may not advertise products it represents in violation
- 4219 of this title or any other federal or state law;
- 4220 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and
- 4221 (g) may only provide samples of products of the manufacturer, supplier, or importer for
- 4222 tasting and sampling purposes as provided in Section 32A-12-603 by the department.
- 4223 (3) (a) A local industry representative licensee shall maintain on file with the
- 4224 department a current accounts list of the names and addresses of all manufacturers, suppliers,
- 4225 and importers the licensee represents.
- 4226 (b) The licensee shall notify the department in writing of any changes to the accounts
- 4227 listed within 14 days from the date the licensee either acquired or lost the account of a
- 4228 particular manufacturer, supplier, or importer.
- 4229 (4) A local industry representative licensee shall maintain accounting and other records
- 4230 and documents as the department may require for at least three years.
- 4231 (5) ~~[Any]~~ A local industry representative licensee or person acting for the licensee, who
- 4232 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
- 4233 the books of account or other documents of the licensee required to be made, maintained, or
- 4234 preserved by this title or the rules of the commission for the purpose of deceiving the
- 4235 commission or the department, or any of their officials or employees, is subject to:
- 4236 (a) the immediate suspension or revocation of the industry representative's license; and
- 4237 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 4238 (6) A local industry representative licensee may, for the purpose of becoming educated
- 4239 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
- 4240 represents, taste and analyze industry representative samples under the conditions listed in this
- 4241 Subsection (6).

4242 (a) The licensee may not receive more than two industry representative samples of a
4243 particular type, vintage, and production lot of a particular branded product within a consecutive
4244 120-day period.

4245 (b) (i) ~~Each~~ A sample of liquor may not exceed 1 liter.

4246 (ii) ~~Each~~ Notwithstanding Subsection (6)(b)(i), a sample of [wine or heavy beer] the
4247 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
4248 a larger size, not to exceed 5 liters[-];

4249 (A) wine;

4250 (B) heavy beer; or

4251 (C) on or after October 1, 2008, a flavored malt beverage.

4252 (c) ~~Each~~ An industry representative sample may only be of a product not presently
4253 listed on the department's sales list.

4254 (d) (i) ~~Industry~~ An industry representative ~~[samples]~~ sample shall be shipped:

4255 (A) prepaid by the manufacturer, supplier, or importer;

4256 (B) by common carrier and not via United States mail; and

4257 (C) directly to the department's central administrative warehouse office.

4258 (ii) ~~These samples~~ An industry representative sample may not be shipped to any other
4259 location within the state.

4260 (e) ~~Industry~~ An industry representative ~~[samples]~~ sample shall be accompanied by a
4261 letter from the manufacturer, supplier, or importer:

4262 (i) clearly identifying the product as an "industry representative sample"; and

4263 (ii) clearly stating:

4264 (A) the FOB case price of the product; and

4265 (B) the name of the local industry representative for who it is intended.

4266 (f) The department shall assess a reasonable handling, labeling, and storage fee for
4267 each industry representative sample received.

4268 (g) The department shall affix to ~~each~~ a bottle or container a label clearly identifying
4269 the product as an "industry representative sample."

4270 (h) The department shall:

4271 (i) account for and record each industry representative sample received;

4272 (ii) account for the sample's disposition; and

- 4273 (iii) maintain a record of the sample and its disposition for a two-year period.
- 4274 (i) ~~[Industry]~~ An industry representative ~~[samples]~~ sample may not leave the premises
4275 of the department's central administrative warehouse office.
- 4276 (j) ~~[Licensed]~~ A licensed industry ~~[representatives]~~ representative and ~~[their]~~ the
4277 industry representative's employees and agents may, at regularly scheduled days and times
4278 established by the department, taste and analyze one or more industry representative samples
4279 on the premises of the department's central administrative warehouse office.
- 4280 (k) Any unused contents of an opened product remaining after the product ~~[has been]~~ is
4281 sampled shall be destroyed by the department under controlled and audited conditions
4282 established by the department.
- 4283 (l) ~~[Industry representative samples]~~ An industry representative sample that ~~[are]~~ is not
4284 tasted within 30 days of receipt by the department shall be disposed of at the discretion of the
4285 department in one of the following ways:
- 4286 (i) contents destroyed under controlled and audited conditions established by the
4287 department; or
- 4288 (ii) added to the inventory of the department for sale to the public.
- 4289 (7) An employee or agent of a local industry representative licensee may not be:
- 4290 (a) the holder of any retail license issued under this title that sells:
- 4291 (i) spirituous liquor~~[-];~~;
- 4292 (ii) wine~~[-or];~~;
- 4293 (iii) heavy beer; or
- 4294 (iv) on or after October 1, 2008, a flavored malt beverage;
- 4295 (b) an employee or agent of any retail licensee issued under this title that sells:
- 4296 (i) spirituous liquor~~[-];~~;
- 4297 (ii) wine~~[-or];~~;
- 4298 (iii) heavy beer; or
- 4299 (iv) on or after October 1, 2008, a flavored malt beverage; or
- 4300 (c) a minor.
- 4301 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
4302 give, or attempt in any way to dispose of the license to any other person, whether for monetary
4303 gain or not.

4304 (b) A local industry representative license has no monetary value for the purpose of any
4305 type of disposition.

4306 Section 46. Section **32A-10-101** is amended to read:

4307 **32A-10-101. State and local licensing -- Limitations.**

4308 (1) ~~[Any]~~ A local authority may:

4309 (a) tax or prohibit any retail sale of beer;

4310 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
4311 consumption;

4312 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
4313 consumption at temporary special events that do not last longer than 30 days;

4314 (d) issue, suspend, and revoke licenses to businesses to sell beer at retail for
4315 off-premise consumption;

4316 (e) establish proximity restrictions for establishing premises where beer is sold at retail
4317 for off-premise consumption in relation to any [~~public or private school, church, public library,~~
4318 ~~public playground, or park~~] community location; and

4319 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the
4320 requirements of Sections 32A-10-102 and 32A-10-103.

4321 (2) The commission shall issue [~~licenses~~] a license to sell beer at retail for on-premise
4322 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

4323 (3) ~~[Each]~~ A licensee issued a license for on-premise consumption, by the commission
4324 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
4325 restrictions provided in Section 32A-10-206, except as otherwise provided.

4326 (4) Suspension or revocation of an on-premise beer retailer license issued by the
4327 commission under Subsection (2) or an on-premise beer retailer license issued by a local
4328 authority under Subsection (1) prohibits the establishment whose license is suspended or
4329 revoked from continuing to operate under the other state or local license it may have.

4330 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
4331 consumption at temporary special events that do not last longer than 30 days as provided in
4332 Part 3, Temporary Special Event Beer Permits.

4333 (6) ~~[Each]~~ A permittee issued a temporary permit by the commission under Subsection
4334 (5) or by the local authority under Subsection (1), is subject to the operational restrictions

4335 provided in Section 32A-10-306, except as otherwise provided.

4336 (7) Suspension or revocation of a temporary permit issued by the commission under
4337 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
4338 permit is suspended or revoked from continuing to operate under the other state or local permit
4339 the permittee may have.

4340 Section 47. Section **32A-10-102** is amended to read:

4341 **32A-10-102. General restrictions.**

4342 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
4343 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell ~~[any]~~ beer except
4344 that which ~~[has been]~~ is lawfully purchased from:

4345 (A) a wholesaler licensed under this title; or ~~[from]~~

4346 (B) a small brewer that ~~[manufactured]~~ manufactures the beer.

4347 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

4348 (b) (i) ~~[All purchases made of beer by any]~~ A beer retailer shall purchase beer only
4349 from a licensed wholesaler ~~[shall be from that wholesaler]~~ who is authorized by the
4350 commission to sell beer in the geographical area in which the beer retailer is located, unless an
4351 alternate wholesaler is authorized by the department to sell to the beer retailer as provided in
4352 Section 32A-11-106.

4353 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

4354 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in
4355 ~~[containers]~~ a container larger than two liters.

4356 (b) For a special event that does not last longer than 30 days:

4357 (i) an on-premise beer retailer license issued by the commission as provided in this part
4358 is not required for the sale of beer at the special event; and

4359 (ii) a temporary beer permit must be obtained from the commission, director, or
4360 director's designee as provided in Part 3, Temporary Special Event Beer Permits.

4361 (3) (a) A minor may not be granted a beer retailer license.

4362 (b) The commission may not grant a beer retailer license to an applicant that is a
4363 partnership, corporation, or limited liability company if any of the following is a minor:

4364 (i) a partner or managing agent of the applicant partnership;

4365 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

4366 total issued and outstanding stock of the applicant corporation; or

4367 (iii) a manager or member who owns at least 20% of the applicant limited liability
4368 company.

4369 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
4370 consumption unless:

4371 (a) the sale is done under the supervision of a person 21 years of age or older who is on
4372 the premises; and

4373 (b) the minor is at least 16 years of age.

4374 (5) (a) ~~[If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise~~
4375 ~~consumption, the] A~~ beer retailer shall ~~[display a sign at the location on the premises where~~
4376 ~~malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please~~
4377 ~~read the label."];~~

4378 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from
4379 the area where a nonalcoholic beverage is displayed; and

4380 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

4381 (A) is prominent;

4382 (B) is easily readable by a consumer;

4383 (C) meets the requirements for format made by the commission by rule made in
4384 accordance with Title 63, Title 46a, Utah Administrative Rulemaking Act; and

4385 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
4386 alcohol. Please read the label carefully."

4387 (b) The requirements of this Subsection (5) apply to a beer notwithstanding that its
4388 labeled, packaged, or advertised as:

4389 (i) a malt cooler; or

4390 (ii) a beverage that may provide energy.

4391 ~~[(b)]~~ (c) A violation of this Subsection (5) is an infraction.

4392 Section 48. Section **32A-10-201** is amended to read:

4393 **32A-10-201. Commission's power to grant licenses -- Limitations.**

4394 (1) Before ~~[any]~~ an establishment may sell beer at retail for on-premise consumption, it
4395 shall first obtain:

4396 (a) an on-premise beer retailer license from the commission as provided in this part;

4397 and

4398 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to
4399 sell beer at retail for on-premise consumption; or

4400 (ii) other written consent of the local authority to sell beer at retail for on-premise
4401 consumption.

4402 (2) (a) Subject to the requirements of this section, the commission may issue
4403 on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets
4404 at places and in numbers as it considers proper for the storage, sale, and consumption of beer
4405 on premises operated as on-premise beer retailer outlets.

4406 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
4407 licenses that are taverns may not at any time aggregate more than that number determined by
4408 dividing the population of the state by [~~25,000~~] 30,500.

4409 (c) For purposes of this Subsection (2), the population of the state shall be determined
4410 by:

4411 (i) the most recent United States decennial special census; or

4412 (ii) [~~any other~~] another population determination made by the United States or state
4413 governments.

4414 (d) (i) The commission may issue seasonal licenses for taverns established in areas the
4415 commission considers necessary.

4416 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

4417 (iii) An on-premise beer retailer license for a tavern issued for operation during a
4418 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.
4419 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

4420 (A) begin on May 1; and

4421 (B) end on October 31.

4422 (iv) An on-premise beer retailer license for a tavern issued for operation during a
4423 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.
4424 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

4425 (A) begin on November 1; and

4426 (B) end on April 30.

4427 (v) In determining the number of tavern licenses that the commission may issue under

4428 this section:

4429 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one
4430 on-premise beer retailer license for a tavern; and

4431 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
4432 a "Seasonal B" on-premise beer retailer license for a tavern.

4433 (3) (a) ~~[The]~~ Except as provided in Subsection (3)(b) or (c), the premises of an
4434 on-premise beer retailer license may not be established:

4435 (i) within 600 feet of [any public or private school, church, public library, public
4436 playground, or park] a community location, as measured by the method in Subsection [(4):]
4437 (3)(d); or

4438 ~~[(b) The premises of an on-premise beer retailer license may not be established]~~

4439 (ii) within 200 feet of [any public or private school, church, public library, public
4440 playground, or park] a community location, measured in a straight line from the nearest
4441 entrance of the proposed outlet to the nearest property boundary of the [public or private
4442 school, church, public library, public playground, or park] community location.

4443 ~~[(c) The restrictions of Subsections (3)(a) and (b) govern unless one of the following~~
4444 ~~exemptions applies:]~~

4445 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise beer retailer license
4446 ~~[that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the~~
4447 ~~unincorporated area of a county]~~, the commission may authorize a variance to reduce the
4448 proximity ~~[requirements]~~ requirement of Subsection (3)(a)(i) ~~[or (b)]~~ if:

4449 ~~[(A)]~~ (i) the local [governing] authority [has granted] grants its written consent to the
4450 variance;

4451 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing an on-premise
4452 beer retailer ~~[tavern]~~ license in the community are limited;

4453 ~~[(C)]~~ (iii) a public hearing [has been] is held in the city, town, or county, and where
4454 practical, in the neighborhood concerned; ~~[and]~~

4455 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
4456 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
4457 establishing the license would not be detrimental to the public health, peace, safety, and
4458 welfare of the community; and

4459 ~~[(ii) with respect to the establishment of an on-premise beer retailer license that~~
4460 ~~operates as a tavern in any location, the commission may authorize a variance to reduce the~~
4461 ~~proximity requirements of Subsection (3)(a) or (b) in relation to a church:]~~

4462 ~~[(A) if the local governing body of the church in question gives its written consent to~~
4463 ~~the variance;]~~

4464 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~
4465 ~~neighborhood concerned; and]~~

4466 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
4467 ~~policies stated in Subsections 32A-1-104(3) and (4);]~~

4468 ~~[(iii) with respect to the establishment of an on-premise beer retailer license that does~~
4469 ~~not operate as a tavern in any location, the commission may authorize a variance that reduces~~
4470 ~~the proximity requirements of Subsection (3)(a) or (b) if:]~~

4471 ~~[(A) the local governing authority has granted its written consent to the variance;]~~

4472 ~~[(B) alternative locations for establishing an on-premise beer retailer license that does~~
4473 ~~not operate as a tavern in the community are limited;]~~

4474 ~~[(C) a public hearing has been held in the city, town, or county, and where practical in~~
4475 ~~the neighborhood concerned; and]~~

4476 ~~[(D) after giving full consideration to all of the attending circumstances and the~~
4477 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
4478 ~~establishing a license would not be detrimental to the public health, peace, safety, and welfare~~
4479 ~~of the community;]~~

4480 (v) (A) the community location governing authority gives its written consent to the
4481 variance; or

4482 (B) when written consent is not given by the community location governing authority,
4483 the commission finds that the applicant has established that:

4484 (I) there is substantial unmet public demand to consume alcohol in a public setting
4485 within the geographic boundary of the local authority in which the on-premise beer retailer
4486 licensee is to be located;

4487 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
4488 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise
4489 beer retailer license; and

4490 (III) there is no reasonably viable alternative location within the geographic boundary
4491 of the local authority in which the on-premise beer retailer licensee is to be located for
4492 establishing an on-premise beer retailer license to satisfy the unmet demand described in
4493 Subsection (3)(b)(v)(B)(I).

4494 [~~(iv) with~~] (c) (i) With respect to [~~any~~] an on-premise beer retailer license issued by
4495 the commission before July 1, 1991, to an establishment that undergoes a change in ownership
4496 after that date, the commission may waive or vary the proximity requirements of this
4497 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new
4498 owner[~~; and~~].

4499 [~~(v) with~~] (ii) With respect to the premises of an on-premise beer retailer license
4500 issued by the commission that undergoes a change of ownership, the commission may waive or
4501 vary the proximity requirements of Subsection (3)(a) [~~or (b)~~] in considering whether to grant an
4502 on-premise beer retailer license to the new owner of the premises if:

4503 (A) (I) the premises previously received a variance from the proximity [requirements]
4504 requirement of Subsection (3)(a)(i) [~~or (b)~~]; or

4505 (II) the premises received a variance from the proximity requirement of Subsection
4506 (3)(a)(ii) on or before May 4, 2008; or

4507 (B) a variance from proximity [~~or distance~~] requirements was otherwise allowed under
4508 this title.

4509 [~~(4) With respect to any public or private school, church, public library, public~~
4510 ~~playground, or park, the]~~

4511 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
4512 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
4513 property boundary of the [~~public or private school, church, public library, public playground,~~
4514 ~~school playground or park~~] community location.

4515 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the
4516 proximity of any educational, religious, and recreational facility, or any other relevant factor in
4517 reaching a decision on a proposed location.

4518 (b) For purposes of this Subsection [~~(5)~~] (4), "educational facility" includes:

4519 (i) a nursery school;

4520 (ii) an infant day care center; and

4521 (iii) a trade and technical school.

4522 Section 49. Section **32A-10-202** is amended to read:

4523 **32A-10-202. Application and renewal requirements.**

4524 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
4525 written application with the department, in a form prescribed by the department. The
4526 application shall be accompanied by:

4527 (a) a nonrefundable \$250 application fee;

4528 (b) an initial license fee that is refundable if a license is not granted in the following
4529 amount:

4530 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
4531 license fee is \$150; or

4532 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
4533 \$1,250;

4534 (c) written consent of the local authority or a license to sell beer at retail for on-premise
4535 consumption granted by the local authority under Section 32A-10-101;

4536 (d) a copy of the applicant's current business license;

4537 (e) evidence of proximity to any [~~public or private school, church, public library,~~
4538 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
4539 ~~Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with~~
4540 ~~those subsections]~~ community location, with proximity requirements being governed by
4541 Section 32A-10-201;

4542 (f) a bond as specified by Section 32A-10-205;

4543 (g) a floor plan of the premises, including consumption areas and the area where the
4544 applicant proposes to keep, store, and sell beer;

4545 (h) evidence that the on-premise beer retailer licensee is carrying public liability
4546 insurance in an amount and form satisfactory to the department;

4547 (i) for [~~those licensees that sell]~~ a licensee that sells more than \$5,000 of beer annually,
4548 evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of
4549 at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

4550 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
4551 any authorized representative of the commission, department, or any peace officer unrestricted

4552 right to enter the licensee premises;

4553 (k) in the case of an applicant that is a partnership, corporation, or limited liability
4554 company, proper verification evidencing that the person or persons signing the on-premise beer
4555 retailer licensee application are authorized to so act on the behalf of the partnership,
4556 corporation, or limited liability company; and

4557 (l) any other information the department may require.

4558 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
4559 year.

4560 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
4561 person's on-premise beer retailer license shall submit by no later than January 31:

4562 (A) a completed renewal application to the department; and

4563 (B) a renewal fee in the following amount:

4564 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
4565 is \$200; or

4566 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
4567 \$1,000.

4568 (ii) A licensee is not required to submit a renewal fee if the licensee is:

4569 (A) a state agency; or

4570 (B) a political subdivision of the state including:

4571 (I) a county; or

4572 (II) a municipality.

4573 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
4574 the license, effective on the date the existing license expires.

4575 (d) [~~Renewal applications~~] A renewal statement shall be in a form as prescribed by the
4576 department.

4577 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
4578 suspend or revoke a beer retailer license if [~~any~~] a beer retailer licensee does not immediately
4579 notify the department of any change in:

4580 (a) ownership of the beer retailer;

4581 (b) for a corporate owner, the:

4582 (i) corporate officers or directors; and

4583 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
4584 corporation; or

4585 (c) for a limited liability company:

4586 (i) managers; or

4587 (ii) members owning at least 20% of the limited liability company.

4588 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
4589 (f) if the applicant is:

4590 (a) a state agency; or

4591 (b) a political subdivision of the state including:

4592 (i) a county; or

4593 (ii) a municipality.

4594 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
4595 license is required for each building or resort facility owned or leased by the same applicant.

4596 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
4597 retail beer dispensing outlet located in the same building or on the same resort premises owned
4598 or operated by the same applicant.

4599 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
4600 in the building or resort facility operate in the same manner.

4601 (ii) If the condition described in Subsection (5)(c)(i) is not met:

4602 (A) one state on-premise beer retailer tavern license is required for all outlets in the
4603 same building or on the same resort premises that operate as a tavern; and

4604 (B) one state on-premise beer retailer license is required for all outlets in the same
4605 building or on the same resort premises that do not operate as a tavern.

4606 Section 50. Section **32A-10-204** is amended to read:

4607 **32A-10-204. Commission and department duties before granting licenses.**

4608 (1) (a) Before an on-premise beer retailer license may be granted by the commission
4609 the department shall conduct an investigation and may hold public hearings for the purpose of
4610 gathering information and making recommendations to the commission as to whether or not a
4611 license should be granted. [~~This~~]

4612 (b) The department shall forward the information [shall be forwarded] and
4613 recommendations described in Subsection (1)(a) to the commission to aid in [its] the

4614 commission's determination.

4615 (2) Before issuing an on-premise beer retailer license, the commission shall:

4616 (a) determine that:

4617 (i) the applicant has complied with all basic qualifications and requirements for making
4618 application for a license as provided by Sections 32A-10-202 and 32A-10-203[;]; and [~~that~~]

4619 (ii) the application is complete;

4620 (b) consider the locality within which the proposed on-premise beer retailer outlet is
4621 located including[; ~~but not limited to~~]:

4622 (i) physical characteristics such as:

4623 (A) the condition of the premises[;];

4624 (B) square footage[;]; and

4625 (C) parking availability; and

4626 (ii) operational factors such as:

4627 (A) tourist traffic[;];

4628 (B) proximity to and density of other state stores, package agencies, and licensed
4629 outlets[;];

4630 (C) demographics[;];

4631 (D) population served[;]; and

4632 (E) the extent of and proximity to any [~~school, church, public library, public~~
4633 ~~playground, or park~~] community location;

4634 (c) consider the applicant's ability to manage and operate an on-premise beer retailer
4635 license including[; ~~but not limited to~~;]:

4636 (i) management experience[;];

4637 (ii) past beer retailer experience[;]; and

4638 (iii) the type of management scheme employed by the outlet;

4639 (d) consider the nature or type of beer retailer operation of the proposed licensee; and

4640 (e) consider any other factors or circumstances [~~it~~] the commission considers
4641 necessary.

4642 Section 51. Section **32A-10-206** is amended to read:

4643 **32A-10-206. Operational restrictions.**

4644 [~~Each~~] A person granted an on-premise beer retailer license and the employees and

4645 management personnel of the on-premise beer retailer licensee shall comply with the following
4646 conditions and requirements. Failure to comply may result in a suspension or revocation of the
4647 license or other disciplinary action taken against individual employees or management
4648 personnel.

4649 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for
4650 on-premise consumption:

4651 (i) in an open container; and

4652 (ii) on draft.

4653 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not
4654 exceed two liters, except that beer may not be sold to an individual patron in a size of container
4655 that exceeds one liter.

4656 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
4657 licensee.

4658 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase
4659 from and be served by a person employed, designated, and trained by the licensee to sell and
4660 serve beer.

4661 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at [~~any~~] an
4662 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

4663 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

4664 (i) minor;

4665 (ii) person actually, apparently, or obviously intoxicated;

4666 (iii) known habitual drunkard; or

4667 (iv) known interdicted person.

4668 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
4669 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
4670 during which time a patron of the tavern may finish consuming a single serving of beer not
4671 exceeding 26 ounces.

4672 (ii) A tavern is not required to remain open:

4673 (A) after all patrons have vacated the premises; or

4674 (B) during an emergency.

4675 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron

- 4676 to remain on the premises to consume alcoholic beverages on the premises.
- 4677 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.
- 4678 (b) Beer may not be sold at a special or reduced price that encourages over
4679 consumption or intoxication.
- 4680 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
4681 retailer's business day such as a "happy hour."
- 4682 (d) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
4683 served for the price of a single alcoholic beverage ~~[is prohibited]~~.
- 4684 (e) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic
4685 beverages may not be sold or served during ~~[any]~~ a set period for a fixed price ~~[is prohibited]~~.
- 4686 (f) An on-premise beer licensee may not engage in a public promotion involving or
4687 offering free alcoholic beverages to the general public.
- 4688 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:
- 4689 (a) the on-premise beer licensee; or
- 4690 (b) an employee or agent of the on-premise beer licensee.
- 4691 (7) Beer sold in a sealed ~~[containers]~~ container by the on-premise beer retailer licensee
4692 may be removed from the on-premise beer retailer premises.
- 4693 (8) (a) A person may not bring onto the premises of an on-premise beer retailer
4694 licensee ~~[any]~~ an alcoholic beverage for on-premise consumption.
- 4695 (b) An on-premise beer retailer licensee or ~~[its officers, managers, employees, or~~
4696 ~~agents]~~ an officer, manager, employee, or agent of the licensee may not:
- 4697 (i) allow a person to bring onto the on-premise beer retailer licensee premises ~~[any]~~ an
4698 alcoholic beverage for on-premise consumption; or
- 4699 (ii) allow consumption of ~~[any such]~~ an alcoholic beverage described in this
4700 Subsection (8) on its premises.
- 4701 (9) An on-premise beer retailer licensee and ~~[its employees]~~ an employee or the
4702 licensee may not permit a patron to carry from the premises an open container that:
- 4703 (a) is used primarily for drinking purposes; and
- 4704 (b) contains ~~[any]~~ an alcoholic beverage.
- 4705 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:
- 4706 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,

4707 dispense, or otherwise furnish beer; or

4708 (ii) on the premises of ~~any~~ a tavern.

4709 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be
4710 employed to enter the sale at a cash register or other sales recording device on the premises of
4711 an on-premise beer retailer that is not a tavern.

4712 (11) An employee of a licensee, while on duty, may not:

4713 (a) consume an alcoholic beverage; or

4714 (b) be intoxicated.

4715 (12) ~~Each~~ An on-premise beer retailer licensee shall display in a prominent place in
4716 the on-premise beer retailer licensee:

4717 (a) the on-premise beer retailer license that is issued by the department; and

4718 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
4719 drugs is a serious crime that is prosecuted aggressively in Utah."

4720 (13) An on-premise beer retailer licensee may not on the premises of the on-premise
4721 beer retailer licensee:

4722 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
4723 Chapter 10, Part 11, Gambling;

4724 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
4725 Part 11, Gambling; or

4726 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4727 the risking of something of value for a return or for an outcome when the return or outcome is
4728 based upon an element of chance, excluding the playing of an amusement device that confers
4729 only an immediate and unrecorded right of replay not exchangeable for value.

4730 (14) (a) Each on-premise beer retailer licensee shall maintain accounting and other
4731 records and documents as the department may require.

4732 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
4733 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
4734 ~~[the entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document
4735 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this
4736 title or the rules of the commission for the purpose of deceiving the commission ~~[or]~~, the
4737 department, or any of their officials or employees, is subject to:

4738 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
4739 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4740 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
4741 period longer than 240 hours, unless:

4742 (i) the tavern licensee notifies the department in writing at least seven days before the
4743 closing; and

4744 (ii) the closure or cessation of operation is first approved by the department.

4745 (b) Notwithstanding Subsection (15)(a), in the case of emergency [~~closure, immediate~~
4746 ~~notice of closure shall be made to~~], a tavern licensee shall immediately notify the department
4747 by telephone.

4748 (c) (i) The department may authorize a closure or cessation of operation for a period
4749 not to exceed 60 days.

4750 (ii) The department may extend the initial period an additional 30 days upon:

4751 (A) written request of the tavern licensee; and

4752 (B) a showing of good cause.

4753 (iii) A closure or cessation of operation may not exceed a total of 90 days without
4754 commission approval.

4755 (d) A notice of closure or cessation by a tavern licensee shall include:

4756 (i) the date of closure or cessation of operation;

4757 (ii) the reason for the closure or cessation of operation; and

4758 (iii) the dates on which the tavern licensee will reopen or resume operation.

4759 (e) Failure of the tavern licensee to provide notice and to obtain department
4760 authorization before closure or cessation of operation [~~shall result~~] results effective
4761 immediately in an automatic forfeiture of:

4762 (i) the license; and

4763 (ii) the unused portion of the license fee for the remainder of the license year.

4764 (f) Failure of the tavern licensee to reopen or resume operation by the approved date
4765 [~~shall result~~] results in an automatic forfeiture of:

4766 (i) the license; and

4767 (ii) the unused portion of the license fee for the remainder of the license year.

4768 (16) An on-premise beer retailer license may not be transferred from one location to

4769 another, without prior written approval of the commission.

4770 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
4771 barter, give, or attempt in any way to dispose of the license to any person, whether for
4772 monetary gain or not.

4773 (b) An on-premise beer retailer license has no monetary value for the purpose of any
4774 type of disposition.

4775 (18) An on-premise beer retailer or an employee of the on-premise beer retailer may
4776 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
4777 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4778 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4779 58-37-2; or

4780 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4781 Section 58-37a-3.

4782 Section 52. Section **32A-10-306** is amended to read:

4783 **32A-10-306. Operational restrictions.**

4784 (1) (a) [~~Any~~] A person granted a temporary special event beer permit and any person
4785 involved in the storage, sale, or service of beer at the event for which a temporary special event
4786 the permit is issued, shall abide by this title, the rules of the commission, and the special
4787 conditions and requirements provided in this section.

4788 (b) Failure to comply as provided in Subsection (1)(a):

4789 (i) may result in:

4790 (A) an immediate revocation of the permit;

4791 (B) forfeiture of the surety bond; and

4792 (C) immediate seizure of all beer present at the event; and

4793 (ii) disqualifies the organization from applying for a temporary special event beer
4794 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
4795 period of three years from the date of revocation of the temporary special event permit.

4796 (c) [~~Any beer~~] Beer seized under this Subsection (1) shall be returned to the
4797 organization after the event if forfeiture proceedings are not instituted under Section
4798 32A-13-103.

4799 (2) Special conditions and requirements for temporary special event beer permittees

4800 include the following:

4801 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of beer at the
4802 temporary special event [~~do so~~] is considered to be under the supervision and direction of the
4803 permittee.

4804 (ii) [~~All persons~~] A person involved in the sale or service of beer at the temporary
4805 special event may not, while on duty:

4806 (A) consume an alcoholic beverage; or

4807 (B) be intoxicated.

4808 (b) (i) [~~All beer~~] A permittee shall purchase beer stored, sold, served, and consumed at
4809 the temporary special event [~~shall be purchased by the permittee~~] from a licensed beer
4810 wholesaler or retailer.

4811 (ii) [~~All beer~~] Beer is considered under the control of the permittee during the
4812 temporary special event.

4813 (iii) An attendee of the temporary special event may not bring [~~any~~] an alcoholic
4814 [~~beverages~~] beverage onto the premises of the temporary special event.

4815 (c) [~~Each~~] A permittee shall post in a prominent place in the area in which beer is being
4816 sold, served, and consumed:

4817 (i) a copy of the permit; and

4818 (ii) a list of the operational restrictions and requirements of temporary special event
4819 beer permittees set forth in this section.

4820 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
4821 consumed in [~~any~~] a location other than that described in the application and designated on the
4822 temporary special event permit unless the permittee first applies for and receives approval from
4823 the commission for a change of location.

4824 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

4825 (A) in an open container; and

4826 (B) on draft.

4827 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
4828 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
4829 container that exceeds one liter.

4830 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed

4831 between the hours of 1 a.m. and 10 a.m.

4832 (ii) This Subsection (2)(f) does not preclude a local authority from being more
4833 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
4834 special event.

4835 (g) Beer may not be sold, served, or otherwise furnished to ~~any~~ a:

4836 (i) minor;

4837 (ii) person actually, apparently, or obviously intoxicated;

4838 (iii) known habitual drunkard; or

4839 (iv) known interdicted person.

4840 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

4841 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

4842 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
4843 of the permitted event.

4844 (iv) ~~[The sale or service of more]~~ More than one beer beverage may not be sold or
4845 served for the price of a single beer beverage ~~[is prohibited]~~.

4846 (v) The permittee may not engage in a public promotion involving or offering free beer
4847 to the general public.

4848 (i) The permittee and its employees may not permit an attendee to carry from the
4849 premises an open container that:

4850 (i) is used for drinking purposes; and

4851 (ii) contains ~~any~~ an alcoholic beverage.

4852 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
4853 event.

4854 (3) The permittee shall maintain an expense and revenue ledger or record showing:

4855 (a) expenditures made for beer; and

4856 (b) the revenue from sale of beer.

4857 (4) A temporary special event beer permit may not be transferred.

4858 (5) A temporary special event beer permittee may not on the premises serviced by the
4859 permittee:

4860 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
4861 Chapter 10, Part 11, Gambling;

4862 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
4863 Part 11, Gambling; or

4864 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4865 the risking of something of value for a return or for an outcome when the return or outcome is
4866 based upon an element of chance, excluding the playing of an amusement device that confers
4867 only an immediate and unrecorded right of replay not exchangeable for value.

4868 (6) A temporary special event beer permittee or an employee of the temporary special
4869 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,
4870 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4871 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4872 58-37-2; or

4873 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4874 Section 58-37a-3.

4875 Section 53. Section **32A-11-106** is amended to read:

4876 **32A-11-106. Operational restrictions.**

4877 [Each] A person granted a beer wholesaling license, and the employees and
4878 management personnel of the beer wholesaling licensee, shall comply with the following
4879 conditions and requirements. Failure to comply may result in a suspension or revocation of the
4880 beer wholesaling license or other disciplinary action taken against individual employees or
4881 management personnel of the licensee.

4882 (1) A licensee may not wholesale [~~any~~] a beer manufactured within the state by a
4883 brewer who is not licensed by the commission as a manufacturing licensee.

4884 (2) A licensee may not wholesale [~~any~~] a beer manufactured out of state by a brewer
4885 who has not obtained a certificate of approval from the department.

4886 (3) (a) A licensee may not sell or distribute beer to [~~any~~] a person within the state
4887 except:

4888 (i) a licensed beer retailer;

4889 (ii) a holder of a single event permit issued [~~by the commission~~] pursuant to Chapter 7,
4890 Single Event Permits; or

4891 (iii) a holder of a temporary [~~retail~~] special event beer permit issued [~~by the~~
4892 ~~commission~~] for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special

4893 Event Beer Permits.

4894 (b) A violation of this Subsection (3) is a class A misdemeanor.

4895 (4) (a) A licensee may not sell or distribute [~~any~~] a beer to [~~any~~] a retailer outside of the
4896 geographic area designated on its application, except that if a licensee is temporarily unable to
4897 supply retail dealers within its authorized geographical area, the department may grant
4898 temporary authority to another licensed wholesaler who distributes the same brand in another
4899 area to supply retailers.

4900 (b) A violation of this Subsection (4) is a class B misdemeanor.

4901 (5) (a) [~~Every~~] A licensee shall own, lease, or otherwise control and maintain a
4902 warehouse facility located in this state for the receipt, storage, and further distribution of all
4903 beer sold by the licensee to [~~any~~] a person within the state.

4904 (b) A licensee may not sell beer to [~~any~~] a person in this state, other than the
4905 department, unless the beer [~~has~~] is first [~~been~~]:

4906 (i) physically removed from the vehicle used to transport the beer from the supplier to
4907 the licensee; and

4908 (ii) delivered into the actual possession and control of the licensee in its warehouse or
4909 other facility.

4910 (6) (a) [~~Each~~] A beer wholesaling licensee shall maintain accounting and other records
4911 and documents as the department may require.

4912 (b) [~~Any~~] A licensee or person acting for the licensee, who knowingly forges, falsifies,
4913 alters, cancels, destroys, conceals, or removes the entries in [~~any of the books~~] a book of
4914 account or other [~~documents~~] document of the licensee required to be made, maintained, or
4915 preserved by this title or the rules of the commission for the purpose of deceiving the
4916 commission [~~or~~], the department, or [~~any of their officials or employees~~] an official or
4917 employee of the commission or department, is subject to:

4918 (i) the immediate suspension or revocation of the beer wholesaling license; and

4919 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4920 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any
4921 way to dispose of the beer wholesaling license to [~~any~~] a person, whether for monetary gain or
4922 not, unless it is done:

4923 (a) in accordance with the commission rules; and

4924 (b) after written consent [~~has been~~] is given by the commission.

4925 (8) A licensee may not sell or distribute [~~any~~] an alcoholic beverage that [~~is not clearly~~
4926 ~~labeled in a manner reasonably calculated to put the public on notice that the beverage is an~~
4927 ~~alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's~~
4928 ~~label which in common usage apprises the general public that the beverage contains alcohol]~~
4929 has not had its label and packaging approved by the department under Chapter 1, Part 8, Malted
4930 Beverages Act.

4931 Section 54. Section **32A-12-212** is amended to read:

4932 **32A-12-212. Unlawful possession -- Exceptions.**

4933 (1) A person may not have or possess within this state any liquor unless authorized by
4934 this title or the rules of the commission, except that:

4935 (a) a person who clears United States Customs when entering this country may have or
4936 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
4937 purchased from without the United States;

4938 (b) a person who moves the person's residence to this state from outside of this state
4939 may have or possess for personal consumption and not for sale or resale, [~~any~~] liquor
4940 previously purchased outside the state and brought into this state during the move, if:

4941 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into
4942 the state;

4943 (ii) the department affixes the official state label to the liquor; and

4944 (iii) the person pays the department a reasonable administrative handling fee as
4945 determined by the commission;

4946 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
4947 outside the state, may have or possess the liquor and transport or cause the liquor to be
4948 transported into the state if:

4949 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into
4950 the state;

4951 (ii) the person provides sufficient documentation to the department to establish the
4952 person's legal right to the liquor as a beneficiary;

4953 (iii) the department affixes the official state label to the liquor; and

4954 (iv) the person pays the department a reasonable administrative handling fee as

4955 determined by the commission; or

4956 (d) a person may transport, have, or possess liquor if:

4957 (i) the person transports, has, or possesses the liquor:

4958 (A) for personal household use and consumption; and

4959 (B) not for:

4960 (I) sale;

4961 (II) resale;

4962 (III) gifting to another; or

4963 (IV) consumption on a premise licensed by the commission;

4964 (ii) the liquor is purchased from a store or outlet on a military installation; and

4965 (iii) the maximum amount the person transports, has, or possesses under this

4966 Subsection (1)(d) is:

4967 (A) two liters of:

4968 (I) spirituous liquor;

4969 (II) wine; or

4970 (III) a combination of spirituous liquor and wine; and

4971 (B) (I) one case of heavy beer that does not exceed 288 ounces[-]; or

4972 (II) on or after October 1, 2008, one case of a flavored malt beverage that does not
4973 exceed 288 ounces.

4974 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:

4975 (i) is transferring the person's permanent residence to this state; or

4976 (ii) maintains separate residences both in and out of this state.

4977 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
4978 than once.

4979 Section 55. Section **32A-12-301** is amended to read:

4980 **32A-12-301. Operating without a license or permit.**

4981 (1) [~~Except as provided by this title or the rules of the commission, a~~] A person may
4982 not operate the following [~~if that establishment allows patrons, customers, members, guests,~~
4983 ~~visitors, or other persons]~~ businesses without first obtaining a license under this title if the
4984 business allows a patron, customer, member, guest, visitor, or other person to purchase or
4985 consume an alcoholic [~~beverages]~~ beverage on the premises of the business:

- 4986 (a) a restaurant;
4987 (b) an airport lounge;
4988 (c) a private club;
4989 (d) an on-premise beer retailer outlet;
4990 (e) on-premise banquet premises; or
4991 (f) ~~[an establishment]~~ a business similar to one listed in Subsections (1)(a) through (e).

4992 (2) A person conducting an event or function that is open to the general public may not
4993 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic ~~[beverages to persons]~~
4994 beverage to a person attending the event or function without first obtaining a permit under this
4995 title.

4996 (3) A person conducting a privately hosted event or private social function may not
4997 directly or indirectly sell or offer to sell an alcoholic ~~[beverages to persons]~~ beverage to a
4998 person attending the privately hosted event or private social function without first obtaining a
4999 permit under this title.

5000 (4) A person may not operate the following businesses without first obtaining a license
5001 under this title:

- 5002 (a) a winery manufacturer;
5003 (b) a distillery manufacturer;
5004 (c) a brewery manufacturer;
5005 (d) a local industry representative of:
5006 (i) a manufacturer of an alcoholic beverage;
5007 (ii) a supplier of an alcoholic beverage; or
5008 (iii) an importer of an alcoholic beverage;
5009 (e) a liquor warehouse; or
5010 (f) a beer wholesaler.

5011 (5) A person may not operate a public conveyance in this state without first obtaining a
5012 public service permit under this title if that public conveyance allows a person to purchase or
5013 consume an alcoholic beverage or alcoholic product:

- 5014 (a) on the public conveyance; or
5015 (b) on the premises of a hospitality room located with a depot, terminal, or similar
5016 facility at which a service is provided to a patron of the public conveyance.

5017 Section 56. Section **32A-12-307** is amended to read:

5018 **32A-12-307. Interfering with suppliers.**

5019 ~~[A]~~ (1) Except as provided in Subsection (2), a member of the commission, the
5020 [department] director, or an employee of the department may not directly or indirectly
5021 participate in any manner, by recommendation or otherwise, in the appointment, employment,
5022 or termination of appointment or employment of [any] an agent, representative, employee, or
5023 officer of [any] a manufacturer, supplier, or importer of liquor[, wine, or heavy beer] to the
5024 department [except to] including a manufacturer, supplier, or importer of:

5025 (a) wine;

5026 (b) heavy beer; or

5027 (c) on or after October 1, 2008, a flavored malt beverage.

5028 (2) A person described in Subsection (1) may participate in the appointment,
5029 employment, or termination of appointment or employment to determine qualifications for
5030 licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce
5031 compliance with this title.

5032 Section 57. Section **32A-12-603** is amended to read:

5033 **32A-12-603. Tied house -- Prohibitions.**

5034 (1) (a) It is unlawful for ~~[any]~~ an industry member, directly or indirectly or through an
5035 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5036 or from the department to the exclusion in whole or in part of any of those products sold or
5037 offered for sale by other persons by acquiring or holding any interest in any license with respect
5038 to the premises of a retailer, except where the license is held by a retailer that is completely
5039 owned by the industry member.

5040 (b) Interest in any retail license includes any interest acquired by a corporate official,
5041 partner, employee, or other representative of the industry member.

5042 (c) Any interest in a retail license acquired by a separate corporation in which the
5043 industry member or the industry member's officials hold ownership or are otherwise affiliated
5044 is an interest in a retail license.

5045 (d) Less than complete ownership of a retail business by an industry member
5046 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

5047 (2) (a) It is unlawful for any industry member, directly or indirectly or through an

5048 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5049 or from the department to the exclusion in whole or in part of any of those products sold or
5050 offered for sale by other persons by acquiring any interest in real or personal property owned,
5051 occupied, or used by the retailer in the conduct of the retailer's business.

5052 (b) For purposes of Subsection (2)(a):

5053 (i) "interest" does not include complete ownership of a retail business by an industry
5054 member;

5055 (ii) interest in retail property includes any interest acquired by a corporate official,
5056 partner, employee, or other representative of the industry member;

5057 (iii) any interest in a retail license acquired by a separate corporation in which the
5058 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
5059 retailer's property;

5060 (iv) less than complete ownership of a retail business by an industry member
5061 constitutes an interest in retail property;

5062 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
5063 member constitutes an interest in the retailer's property; and

5064 (vi) the renting of display space by an industry member at a retail establishment
5065 constitutes an interest in the retailer's property.

5066 (3) (a) It is unlawful for any industry member, directly or indirectly or through an
5067 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5068 or from the department to the exclusion in whole or in part of any of those products sold or
5069 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
5070 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
5071 exceptions enumerated in Subsection (4).

5072 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

5073 (A) furnishing things of value to a third party where the benefits resulting from the
5074 things of value flow to individual retailers; and

5075 (B) making payments for advertising to a retailer association or a display company
5076 where the resulting benefits flow to individual retailers.

5077 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

5078 (A) the thing of value was furnished to a retailer by the third party without the

5079 knowledge or intent of the industry member; or

5080 (B) the industry member did not reasonably foresee that the thing of value would have
5081 been furnished to a retailer.

5082 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
5083 members to retailers under Subsection (4) may be furnished directly by a third party to a
5084 retailer.

5085 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,
5086 except as provided in Subsection (4), is the selling of equipment within the meaning of
5087 Subsection (3)(a) regardless of how the equipment is sold.

5088 (ii) The negotiation by an industry member of a special price to a retailer for equipment
5089 from an equipment company is the furnishing of a thing of value within the meaning of
5090 Subsection (3)(a).

5091 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
5092 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
5093 delaying final delivery of products beyond the close of the period of time for which credit is
5094 lawfully extended, is the furnishing of a service or thing of value within the meaning of
5095 Subsection (3)(a).

5096 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
5097 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
5098 service or thing of value within the meaning of Subsection (3)(a).

5099 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
5100 members to retailers under the conditions and within the limitations prescribed in:

5101 (i) this Subsection (4); and

5102 (ii) the applicable federal laws cited in this Subsection (4).

5103 (b) (i) The following may be furnished by an industry member:

5104 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

5105 (B) point of sale advertising materials and consumer advertising specialties as provided
5106 in 27 C.F.R. Sec. 6.84;

5107 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5108 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5109 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

- 5110 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;
- 5111 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;
- 5112 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;
- 5113 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
- 5114 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and
- 5115 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.
- 5116 (ii) The following exceptions provided in federal law are not adopted:
- 5117 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;
- 5118 (B) the exception for consumer tasting or sampling at retail establishments provided in
- 5119 27 C.F.R. Sec. 6.95; and
- 5120 (C) the exception for participation in retailer association activities provided in 27
- 5121 C.F.R. Sec. 6.100.
- 5122 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
- 5123 and maintain a record:
- 5124 (A) of all items furnished to a retailer;
- 5125 (B) on premises of the industry member; and
- 5126 (C) for a three-year period.
- 5127 (c) [~~Samples of liquor, wine, and heavy beer~~] A sample of liquor may be provided to
- 5128 the department under the following conditions [~~listed in this Subsection (4)(c):~~];
- 5129 (i) This Subsection (4)(c) includes a sample of:
- 5130 (A) wine;
- 5131 (B) heavy beer; or
- 5132 (C) on or after October 1, 2008, a flavored malt beverage.
- 5133 ~~(i)~~ (ii) With the department's permission, an industry member may submit department
- 5134 samples to the department for product testing, analysis, and sampling.
- 5135 ~~(ii)~~ (iii) No more than two department samples of a particular type, vintage, and
- 5136 production lot of a particular branded product may be submitted to the department for
- 5137 department testing, analysis, and sampling within a consecutive 120-day period.
- 5138 ~~(iii)~~ (iv) (A) [~~Each~~] A sample of liquor may not exceed 1 liter.
- 5139 (B) [~~Each~~] Notwithstanding Subsection (4)(c)(iv)(A), a sample of [~~wine and heavy~~] the
- 5140 following beer may not exceed 1.5 liters unless that exact product is only commercially

5141 packaged in a larger size, not to exceed 5 liters[-];

5142 (I) wine;

5143 (II) heavy beer; or

5144 (III) on or after October 1, 2008, a flavored malt beverage.

5145 [~~(iv)~~] (v) (A) [Department samples] A department sample submitted to the department:

5146 (I) shall be shipped prepaid by the industry member by common carrier; and

5147 (II) may not be shipped by United States mail directly to the department's central

5148 administrative warehouse office.

5149 (B) [~~Department samples~~] A department sample may not be shipped to any other

5150 location within the state.

5151 [~~(v) Department samples~~] (vi) A department sample submitted to the department shall

5152 be accompanied by a letter from the industry member:

5153 (A) clearly identifying the product as a "department sample"; and

5154 (B) clearly stating the FOB case price of the product.

5155 [~~(vi)~~] (vii) (A) The department may transfer listed items from current stock for use as

5156 comparison control samples or to verify product spoilage as [~~deemed~~] considered appropriate.

5157 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be charged back to

5158 the respective industry member.

5159 [~~(vii)~~] (viii) The department shall:

5160 (A) account for, label, and record all department samples received or transferred;

5161 (B) account for the department sample's disposition; and

5162 (C) maintain a record:

5163 (I) of the samples and their disposition; and

5164 (II) for a two-year period.

5165 [~~(viii)~~] (ix) The department shall affix to each bottle or container a label clearly

5166 identifying the product as a "department sample".

5167 [~~(ix) Each~~] (x) A department sample delivered to the department or transferred from

5168 the department's current stock shall be disposed of at the discretion of the department in one of

5169 the following ways:

5170 (A) tested and analyzed with the remaining contents destroyed under controlled and

5171 audited conditions established by the department;

5172 (B) entire contents destroyed under controlled and audited conditions established by
5173 the department; or

5174 (C) added to the inventory of the department for sale to the public.

5175 [~~(x)~~] (xi) Persons other than authorized department officials may not be in possession
5176 of department samples except as otherwise provided.

5177 (d) Samples of beer may be provided by a beer industry member to a retailer under the
5178 conditions listed in this Subsection (4)(d).

5179 (i) Samples of beer may be provided by an industry member only to a retailer who has
5180 not purchased the brand of beer from that industry member within the last 12 months.

5181 (ii) For each retailer, the industry member may give not more than three gallons of any
5182 brand of beer, except that if a particular product is not available in a size within the quantity
5183 limitation an industry member may furnish the next largest size.

5184 (e) Educational seminars may involve an industry member under the conditions listed
5185 in this Subsection (4)(e).

5186 (i) An industry member may provide or participate in educational seminars:

5187 (A) involving:

5188 (I) the department;

5189 (II) retailers;

5190 (III) holders of educational or scientific special use permits;

5191 (IV) other industry members; or

5192 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

5193 (B) regarding such topics as:

5194 (I) merchandising and product knowledge;

5195 (II) use of equipment; and

5196 (III) tours of alcoholic beverage manufacturing facilities.

5197 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
5198 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).

5199 (iii) (A) A liquor industry member for purposes of this Subsection (4)(e)(iii) includes
5200 an industry member for:

5201 (I) wine;

5202 (II) heavy beer; and

- 5203 (III) on or after October 1, 2008, a flavored malt beverage.
- 5204 ~~[(iii)(A)]~~ (B) A liquor~~[-wine, and heavy beer]~~ industry member may conduct ~~[tastings]~~
5205 a tasting of the industry member's liquor products:
- 5206 (I) for the department, at the department's request; and
- 5207 (II) for licensed industry representatives, but only at the department's central
5208 administrative warehouse office.
- 5209 ~~[(B)]~~ (C) The industry member may only use department or industry representative
5210 samples when conducting any tasting of the industry member's products.
- 5211 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
5212 retailer either at:
- 5213 (A) the industry member's premises; or
- 5214 (B) a retail establishment.
- 5215 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
5216 member may not conduct tasting or sampling activities with:
- 5217 (A) a retailer; or
- 5218 (B) a member of the general public.
- 5219 (f) A beer industry member may participate in beer retailer association activities to the
5220 extent authorized by 27 C.F.R. Sec. 6.100.
- 5221 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,
5222 educational, or community activities.
- 5223 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a
5224 retailer in the selection of the alcoholic beverage products that may be sold at these activities
5225 and events.
- 5226 (iii) An industry member or retailer violates this section if:
- 5227 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,
5228 directly or indirectly, the retailer in the selection of alcoholic beverage products; and
- 5229 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
5230 sale at the activity or event.
- 5231 (h) (i) An industry member may lease or furnish equipment listed in Subsection
5232 (4)(h)(ii) to a retailer if:
- 5233 (A) the equipment is leased or furnished for a special event;

- 5234 (B) a reasonable rental or service fee is charged for the equipment; and
- 5235 (C) the period for which the equipment is leased or furnished does not exceed 30 days.
- 5236 (ii) This Subsection (4)(h) applies to the following equipment:
- 5237 (A) a picnic pump;
- 5238 (B) a cold plate;
- 5239 (C) a tub;
- 5240 (D) a keg box;
- 5241 (E) a refrigerated trailer;
- 5242 (F) a refrigerated van; or
- 5243 (G) a refrigerated draft system.
- 5244 (i) (i) A liquor industry member for purposes of this Subsection (4)(i) includes an
- 5245 industry member for:
- 5246 (A) wine;
- 5247 (B) heavy beer; or
- 5248 (C) on or after October 1, 2008, a flavored malt beverage.
- 5249 ~~[(i)]~~ (ii) A liquor~~[- wine, and heavy beer]~~ industry member may assist the department
- 5250 in:
- 5251 (A) ordering, shipping, and delivering merchandise;
- 5252 (B) new product notification;
- 5253 (C) listing and delisting information;
- 5254 (D) price quotations;
- 5255 (E) product sales analysis;
- 5256 (F) shelf management; and
- 5257 (G) educational seminars.
- 5258 ~~[(ii)]~~ (iii) (A) Subject to Subsection (4)(i)~~[(ii)]~~ (iii)(B), a liquor~~[- wine, and heavy beer]~~
- 5259 industry member may, for the purpose of acquiring new listings:
- 5260 (I) solicit orders from the department; and
- 5261 (II) submit to the department samples of their products under Subsection (4)(c) and
- 5262 price lists.
- 5263 (B) An industry member may not solicit either in person, by mail, or otherwise, any
- 5264 state store personnel for the purpose or with the intent of furthering the sale of a particular

5265 brand or brands of alcoholic beverage product as against another brand or brands.

5266 ~~[(iii)]~~ (iv) (A) Any visitations to a state store or package agency by an industry member
5267 shall be confined to the customer areas of the store unless otherwise approved.

5268 (B) Calls on the state warehouse by industry members are to be confined to the office
5269 area only unless otherwise approved.

5270 ~~[(iv)]~~ (v) A beer industry member may assist licensed retailers in:

5271 (A) ordering, shipping, and delivering beer merchandise;

5272 (B) new product notification;

5273 (C) listing and delisting information;

5274 (D) price quotations;

5275 (E) product sales analysis;

5276 (F) shelf management; and

5277 (G) educational seminars.

5278 ~~[(v)]~~ (vi) A beer industry member may, for the purpose of acquiring new listings:

5279 (A) solicit orders from licensed retailers; and

5280 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)
5281 and price lists.

5282 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,
5283 to induce any retailer to purchase any alcoholic beverages from the industry member or from
5284 the department to the exclusion in whole or in part of any of those products sold or offered for
5285 sale by other persons by paying or crediting the retailer for any advertising, display, or
5286 distribution service:

5287 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;

5288 and

5289 (b) subject to the exceptions:

5290 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5291 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5292 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,
5293 to induce any retailer to purchase any alcoholic beverages from the industry member or from
5294 the department to the exclusion in whole or in part of any of those products sold or offered for
5295 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of

5296 the retailer.

5297 (7) (a) It is unlawful for any industry member, directly or indirectly or through an
5298 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion
5299 in whole or in part of any beer products sold or offered for sale by other persons by extending
5300 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of
5301 full legal discharge of the retailer through the payment of cash or its equivalent, from all
5302 indebtedness arising from the transaction, so long as that beer purchased or delivered during
5303 the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of
5304 the same month, and beer purchased or delivered after the 15th day of any month is paid for in
5305 cash or its equivalent on or before the 10th day of the next succeeding month.

5306 (b) First party in-state checks are considered cash payment if the checks:

5307 (i) are honored on presentment; and

5308 (ii) received under the terms prescribed in Subsection (7)(a).

5309 (c) An extension of credit for product purchased by an industry member to a retailer
5310 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer
5311 pays in advance or on delivery an amount equal to or greater than the value of each order,
5312 regardless of the manner in which the industry member applies the payment in its records.

5313 (8) (a) It is unlawful for any industry member, directly or indirectly or through an
5314 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5315 or from the department to the exclusion in whole or in part of any of those products sold or
5316 offered for sale by other persons by requiring:

5317 (i) the department to take and dispose of a certain quota of any alcoholic products; or

5318 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

5319 (b) (i) It is an unlawful means to induce to require:

5320 (A) the department to purchase one product in order to purchase another; or

5321 (B) a beer retailer to purchase one beer product in order to purchase another.

5322 (ii) This Subsection (8)(b) includes:

5323 (A) the requirement to take a minimum quantity of a product in standard packaging in
5324 order to obtain the same product in some type of premium package such as:

5325 (I) a distinctive decanter; or

5326 (II) a wooden or tin box; or

5327 (B) combination sales if one or more products may be purchased only in combination
5328 with other products and not individually.

5329 (c) This Subsection (8) does not preclude the selling, at a special combination price,
5330 two or more kinds or brands of products so long as the department or beer retailer:

5331 (i) has the option of purchasing either product at the usual price; and

5332 (ii) is not required to purchase any product the department or beer retailer does not
5333 want.

5334 (d) An industry member may package and distribute alcoholic beverages in
5335 combination with other nonalcoholic items or products.

5336 (e) The combination package shall be designed to be delivered intact to the consumer
5337 and the additional cost incurred by the industry member shall be included in the cost to the
5338 department or beer retailer.

5339 Section 58. Section **53-10-102** is amended to read:

5340 **53-10-102. Definitions.**

5341 As used in this chapter:

5342 (1) "Administration of criminal justice" means performance of any of the following:
5343 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
5344 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5345 (2) "Alcoholic [~~beverages~~] beverage" has the same meaning as provided in Section
5346 32A-1-105.

5347 (3) "Alcoholic [~~products~~] product" has the same meaning as provided in Section
5348 32A-1-105.

5349 (4) "Commission" means the Alcoholic Beverage Control Commission.

5350 (5) "Communications services" means the technology of reception, relay, and
5351 transmission of information required by public safety agencies in the performance of their duty.

5352 (6) "Conviction record" means criminal history information indicating a record of a
5353 criminal charge which has led to a declaration of guilt of an offense.

5354 (7) "Criminal history record information" means information on individuals consisting
5355 of identifiable descriptions and notations of:

5356 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and
5357 any disposition arising from any of them; and

5358 (b) sentencing, correctional supervision, and release.

5359 (8) "Criminalist" means the scientific discipline directed to the recognition,
5360 identification, individualization, and evaluation of physical evidence by application of the
5361 natural sciences in law-science matters.

5362 (9) "Criminal justice agency" means courts or a government agency or subdivision of a
5363 government agency that administers criminal justice under a statute, executive order, or local
5364 ordinance and that allocates greater than 50% of its annual budget to the administration of
5365 criminal justice.

5366 (10) "Department" means the Department of Public Safety.

5367 (11) "Director" means the division director appointed under Section 53-10-103.

5368 (12) "Division" means the Criminal Investigations and Technical Services Division
5369 created in Section 53-10-103.

5370 (13) "Executive order" means an order of the president of the United States or the chief
5371 executive of a state that has the force of law and that is published in a manner permitting
5372 regular public access to it.

5373 (14) "Forensic" means dealing with the application of scientific knowledge relating to
5374 criminal evidence.

5375 (15) "Missing child" means any person under the age of 18 years who is missing from
5376 his or her home environment or a temporary placement facility for any reason and whose
5377 location cannot be determined by the person responsible for the child's care.

5378 (16) "Missing person" has the same meaning as provided in Section 26-2-27.

5379 (17) "Pathogens" means disease-causing agents.

5380 (18) "Physical evidence" means something submitted to the bureau to determine the
5381 truth of a matter using scientific methods of analysis.

5382 (19) "Qualifying entity" means a business, organization, or a governmental entity
5383 which employs persons who deal with:

5384 (a) national security interests;

5385 (b) care, custody, or control of children;

5386 (c) fiduciary trust over money; or

5387 (d) health care to children or vulnerable adults.

5388 Section 59. Section **76-5-113** is amended to read:

5389 **76-5-113. Surreptitious administration of certain substances -- Definitions --**
5390 **Penalties -- Defenses.**

5391 (1) As used in this section:

5392 (a) "Administer" means the introduction of a substance into the body by injection,
5393 inhalation, ingestion, or by any other means.

5394 (b) "Alcoholic beverage" has the same meaning as "alcoholic [~~beverages~~] beverage" in
5395 Section 32A-1-105.

5396 (c) "Bodily injury" has the same definition as in Section 76-1-601.

5397 (d) "Controlled substance" has the same definition as in Section 58-37-2.

5398 (e) "Deleterious substance" means a substance which, if administered, would likely
5399 cause bodily injury.

5400 (f) "Poisonous" means a substance which, if administered, would likely cause serious
5401 bodily injury or death.

5402 (g) "Prescription drug" has the same definition as in Section 58-17b-102.

5403 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.

5404 (i) "Substance" means a controlled substance, poisonous substance, or deleterious
5405 substance as defined in this Subsection (1).

5406 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal
5407 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to
5408 cause another person to unknowingly consume or receive the administration of:

5409 (a) any poisonous, deleterious, or controlled substance; or

5410 (b) any alcoholic beverage.

5411 (3) A violation of Subsection (2) is:

5412 (a) a second degree felony if the substance is a poisonous substance, regardless of
5413 whether the substance is a controlled substance or a prescription drug;

5414 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),
5415 and is a controlled substance or a prescription drug; and

5416 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic
5417 beverage.

5418 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

5419 (i) provided the appropriate administration of a prescription drug; and

5420 (ii) acted on the reasonable belief that his conduct was in the best interest of the
5421 well-being of the person to whom the prescription drug was administered.

5422 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing
5423 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the
5424 trial.

5425 (ii) The notice shall specifically identify the factual basis for the defense and the names
5426 and addresses of the witnesses the defendant proposes to examine to establish the defense.

5427 (c) The prosecuting attorney shall file and serve the defendant with a notice containing
5428 the names and addresses of the witnesses the prosecutor proposes to examine in order to
5429 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).
5430 This notice shall be filed or served not more than ten days after receipt of the defendant's notice
5431 under Subsection (4)(b), or at another time as the court may direct.

5432 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)
5433 entitles the opposing party to a continuance to allow for preparation.

5434 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may
5435 impose appropriate sanctions.

5436 (5) This section does not diminish the scope of authorized health care by a health care
5437 provider as defined in Section 26-23a-1.

5438 **Section 60. Appropriation.**

5439 As an ongoing appropriation subject to future budget constraints, there is appropriated
5440 from the Liquor Control Fund for fiscal year 2008-2009, \$1,589,100 to the Division of
5441 Substance Abuse and Mental Health within the Department of Human Services for purposes of
5442 substance abuse prevention and treatment.

S.B. 211 1st Sub. (Green) - 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 \$604,000 consequently reducing General Fund Revenues by the same amount. Sales through the Department of Alcoholic Beverage Control would generate sales tax increases of \$467,500 to the General Fund. The Department of Alcoholic Beverage Control anticipates an increase in revenue of \$2,491,400 which includes profit to the Department of \$1,725,600 and \$765,800 that is transferred to the school lunch program. This bill appropriates \$1,589,100 from the Liquor Control Fund to the Division of Substance Abuse and Mental Health, Department of Human Services. The remaining Liquor Control Fund revenue - \$136,500 - would be deposited into the General Fund whereby offsetting any General Fund revenue loss.

	<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>
Liquor Control Fund	\$0	\$1,589,100	\$1,589,100	\$0	\$2,354,900	\$2,354,900
Transfers	\$0	\$765,800	\$765,800	\$0	\$0	\$0
Total	\$0	\$2,354,900	\$2,354,900	\$0	\$2,354,900	\$2,354,900

Individual, Business and/or Local Impact

Certain individuals would pay higher prices for certain alcoholic beverages. Certain businesses may be impacted due to the reduction in inventory they are able to carry. Local school districts would benefit from revenue generated by this bill.