

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: Stephen H. Urquhart

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;
- ▶ addresses the dispensing of spirituous liquor;
- ▶ addresses the amount of spirituous liquor that may be before a patron or attendee;
- ▶ prohibits conduct related to controlled substances and drug paraphernalia;



- 26 ▶ modifies requirements related to price lists and private clubs;
- 27 ▶ establishes requirements related to the display of beer;
- 28 ▶ expands provisions prohibiting operation without a license or permit; and
- 29 ▶ makes technical and conforming amendments.

30 Monies Appropriated in this Bill:

31 This bill appropriates:

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

35 Other Special Clauses:

36 None

37 Utah Code Sections Affected:

38 AMENDS:

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

- 57 **32A-4-401**, as last amended by Laws of Utah 2007, Chapter 284
- 58 **32A-4-402**, as last amended by Laws of Utah 2007, Chapter 284
- 59 **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 60 **32A-5-101**, as last amended by Laws of Utah 2006, Chapter 162
- 61 **32A-5-102**, as last amended by Laws of Utah 2007, Chapter 284
- 62 **32A-5-104**, as last amended by Laws of Utah 2003, Chapter 314
- 63 **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 64 **32A-7-101**, as last amended by Laws of Utah 2004, Chapter 268
- 65 **32A-7-106**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 66 **32A-8-101**, as last amended by Laws of Utah 2003, Chapter 314
- 67 **32A-8-401**, as last amended by Laws of Utah 2004, Chapter 268
- 68 **32A-8-501**, as last amended by Laws of Utah 2003, Chapter 314
- 69 **32A-8-503**, as last amended by Laws of Utah 2004, Chapter 268
- 70 **32A-8-505**, as last amended by Laws of Utah 2007, Chapter 284
- 71 **32A-10-101**, as last amended by Laws of Utah 2007, Chapter 284
- 72 **32A-10-102**, as last amended by Laws of Utah 2007, Chapter 284
- 73 **32A-10-201**, as last amended by Laws of Utah 2006, Chapter 162
- 74 **32A-10-202**, as last amended by Laws of Utah 2007, Chapter 284
- 75 **32A-10-204**, as last amended by Laws of Utah 1991, Chapter 5
- 76 **32A-10-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 77 **32A-10-306**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 78 **32A-11-106**, as last amended by Laws of Utah 2004, Chapter 268
- 79 **32A-12-212**, as last amended by Laws of Utah 2005, Chapter 152
- 80 **32A-12-222**, as last amended by Laws of Utah 2004, Chapter 268
- 81 **32A-12-301**, as last amended by Laws of Utah 2006, Chapter 162
- 82 **32A-12-307**, as last amended by Laws of Utah 2003, Chapter 314
- 83 **32A-12-603**, as last amended by Laws of Utah 2004, Chapter 268
- 84 **53-10-102**, as last amended by Laws of Utah 2000, Chapter 1
- 85 **76-5-113**, as last amended by Laws of Utah 2004, Chapter 280
- 86 ENACTS:
- 87 **32A-1-701**, Utah Code Annotated 1953

- 88 32A-1-702, Utah Code Annotated 1953
- 89 32A-1-703, Utah Code Annotated 1953
- 90 32A-1-704, Utah Code Annotated 1953
- 91 32A-1-801, Utah Code Annotated 1953
- 92 32A-1-802, Utah Code Annotated 1953
- 93 32A-1-803, Utah Code Annotated 1953
- 94 32A-1-804, Utah Code Annotated 1953
- 95 32A-1-805, Utah Code Annotated 1953
- 96 32A-1-806, Utah Code Annotated 1953
- 97 32A-1-807, Utah Code Annotated 1953
- 98 32A-1-808, Utah Code Annotated 1953
- 99 32A-1-809, Utah Code Annotated 1953

100

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

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

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

104 As used in this title:

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

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

110 (a) beer;

111 (b) flavored malt beverage; and

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

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

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

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

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

117 (ii) [~~are~~] is obtained by fermentation, infusion, decoction, brewing, distillation, or [~~any~~]
118 other process that uses [~~any~~] liquid or combinations of liquids, whether drinkable or not, to

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

- 150 (D) stout;
- 151 (E) lager; or
- 152 (F) a malt or malted beverage.
- 153 (d) On or after October 1, 2008, "beer" does not include a flavored malt beverage.
- 154 (6) (a) "Beer retailer" means a business that is:
 - 155 (i) engaged, primarily or incidentally, in the retail sale of beer to [~~patrons~~] a patron,
 - 156 whether for consumption on or off the business premises; and
 - 157 (ii) licensed to sell beer by:
 - 158 (A) the commission;
 - 159 (B) a local authority; or
 - 160 (C) both the commission and a local authority.
 - 161 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
 - 162 beer to [~~patrons~~] a patron for consumption off the beer retailer's premises.
 - 163 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
 - 164 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
 - 165 [~~patrons~~] a patron for consumption on the beer retailer's premises, regardless of whether the
 - 166 business sells beer for consumption off the beer retailer's premises.
 - 167 (7) "Billboard" means [~~any~~] a public display used to advertise including:
 - 168 (a) a light device;
 - 169 (b) a painting;
 - 170 (c) a drawing;
 - 171 (d) a poster;
 - 172 (e) a sign;
 - 173 (f) a signboard; or
 - 174 (g) a scoreboard.
 - 175 (8) "Brewer" means [~~any~~] a person engaged in manufacturing:
 - 176 (a) beer[-];
 - 177 (b) heavy beer; or
 - 178 (c) a flavored malt beverage.
 - 179 (9) "Cash bar" means the service of an alcoholic [~~beverages~~] beverage:
 - 180 (a) at:

- 181 (i) a banquet; or
182 (ii) a temporary event for which a permit is issued under this title; and
183 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
184 beverage.
- 185 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
186 a bus company to a group of persons pursuant to a common purpose:
- 187 (a) under a single contract;
188 (b) at a fixed charge in accordance with the bus company's tariff; and
189 (c) for the purpose of giving the group of persons the exclusive use of the passenger
190 bus, coach, or other motor vehicle and a driver to travel together to [a] one or more specified
191 [destination or] destinations.
- 192 (11) "Church" means a building:
- 193 (a) set apart for the purpose of worship;
194 (b) in which religious services are held;
195 (c) with which clergy is associated; and
196 (d) which is tax exempt under the laws of this state.
- 197 (12) "Club" and "private club" means any of the following organized primarily for the
198 benefit of its members:
- 199 (a) a social club;
200 (b) a recreational association;
201 (c) a fraternal association;
202 (d) an athletic association; or
203 (e) a kindred association.
- 204 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 205 (14) "Community location" means:
- 206 (a) a public or private school;
207 (b) a church;
208 (c) a public library;
209 (d) a public playground; or
210 (e) a public park.
- 211 (15) "Community location governing authority" means:

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

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

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

219 [~~(15)~~] (18) "Distressed merchandise" means [any] an alcoholic beverage in the
220 possession of the department that is saleable, but for some reason is unappealing to the public.

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

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

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

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

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

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

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

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

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

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

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

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

239 (a) without charge; and

240 (b) at a:

241 (i) banquet; or

242 (ii) privately hosted event.

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

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

247 (a) law; or

248 (b) court order.

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

251 (a) an alcoholic beverage;

252 (b) a controlled substance;

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

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

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

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

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

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

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

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

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

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

273 (b) "Liquor" does not include ~~[any]~~ a beverage defined as a beer~~[- malt liquor, or~~

274 ~~malted beverage that has an alcohol content of less than 4% alcohol by volume].~~

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

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

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

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

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

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

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

288 (B) of the National Guard;

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

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

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

292 (i) civil works;

293 (ii) rivers and harbors projects; or

294 (iii) flood control projects.

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

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

297 (a) the appearance of:

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

299 (ii) a human genital;

300 (iii) a human pubic area; or

301 (iv) a human anus; or

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

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

304 (ii) a human genital;

305 (iii) a human pubic area; or

306 (iv) a human anus.

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

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

310 (a) a container;

311 (b) a bottle;

312 (c) a vessel; or

313 (d) other receptacle.

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

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

316 (b) by a person;

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

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

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

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

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

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

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

335 [~~(39)~~] (43) (a) "Privately hosted event" or "private social function" means a specific

336 social, business, or recreational event;

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

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

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

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

344 (a) an identification card;

345 (b) an identification that:

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

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

349 (iii) includes date of birth; and

350 (iv) has a picture affixed;

351 (c) a valid driver license certificate that:

352 (i) includes date of birth;

353 (ii) has a picture affixed; and

354 (iii) is issued:

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

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

357 (d) a military identification card that:

358 (i) includes date of birth; and

359 (ii) has a picture affixed; or

360 (e) a valid passport.

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

363 (i) public education;

364 (ii) transacting public business; or

365 (iii) regularly conducting government activities.

366 (b) "Public building" does not mean or refer to [~~any~~] a building owned by the state or a

367 county or local government entity when the building is used by ~~[anyone]~~ a person, in whole or
368 in part, for ~~a proprietary [functions]~~ function.

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

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

373 (b) heavy beer; or

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

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

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

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

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

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

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

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

385 (i) a department sample; and

386 (ii) an industry representative sample.

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

389 (i) wine;

390 (ii) heavy beer; or

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

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

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

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

396 representative of the quality and characteristics of the product~~[-]~~; and

397 (ii) including:

398 (A) wine;
399 (B) heavy beer; or
400 (C) on or after October 1, 2008, a flavored malt beverage.
401 ~~[(47)]~~ (51) (a) "School" means ~~[any]~~ a building used primarily for the general
402 education of minors.
403 (b) "School" does not include:
404 (i) a nursery school;
405 (ii) an infant day care center; or
406 (iii) a trade or technical school.
407 ~~[(48)]~~ (52) "Sell," "sale," and "to sell" means ~~[any]~~ a transaction, exchange, or barter
408 whereby, for ~~[any]~~ consideration, an alcoholic beverage is either directly or indirectly
409 transferred, solicited, ordered, delivered for value, or by ~~[any]~~ a means or under ~~[any]~~ a pretext
410 is promised or obtained, whether done by a person as a principal, proprietor, or as an agent,
411 servant, or employee, unless otherwise defined in this title or the rules made by the
412 commission.
413 ~~[(49)]~~ (53) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
414 which opaque clothing covers no more than:
415 (a) the nipple and areola of the female human breast in a shape and color other than the
416 natural shape and color of the nipple and areola; and
417 (b) the human genitals, pubic area, and anus:
418 (i) with no less than the following at its widest point:
419 (A) four inches coverage width in the front of the human body; and
420 (B) five inches coverage width in the back of the human body; and
421 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
422 ~~[(50)]~~ (54) "Sexually oriented entertainer" means a person who while in a state of
423 seminudity appears at or performs:
424 (a) for the entertainment of one or more patrons;
425 (b) on the premises of:
426 (i) a class D private club as defined in Subsection 32A-5-101(3); or
427 (ii) a tavern;
428 (c) on behalf of or at the request of the licensee described in Subsection ~~[(50)]~~ (54)(b);

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

- 460 (ii) a parlor;
- 461 (iii) a lounge;
- 462 (iv) a cabaret; or
- 463 (v) a nightclub.

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

467 [~~58~~] (62) "Unsaleable liquor merchandise" means merchandise that:

468 (a) is unsaleable because the merchandise is:

- 469 (i) unlabeled;
- 470 (ii) leaky;
- 471 (iii) damaged;
- 472 (iv) difficult to open; or
- 473 (v) partly filled;

474 (b) is in a container:

- 475 (i) having faded labels or defective caps or corks;
- 476 (ii) in which the contents are:
 - 477 (A) cloudy;
 - 478 (B) spoiled; or
 - 479 (C) chemically determined to be impure; or

480 (iii) that contains:

- 481 (A) sediment; or
- 482 (B) [~~any~~] a foreign substance; or
- 483 (c) is otherwise considered by the department as unfit for sale.

484 [~~59~~] (63) "Visitor" means an individual that in accordance with Section 32A-5-107
485 holds limited privileges in a private club by virtue of a visitor card.

486 [~~60~~] (64) "Warehouser" means [~~any~~] a person, other than a licensed manufacturer,
487 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

488 [~~61~~] (65) (a) "Wholesaler" means [~~any~~] a person engaged in the importation for sale,
489 or in the sale of beer in wholesale or jobbing quantities to one or more retailers[~~, other than a~~].

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

491 selling beer manufactured by that brewer.

492 [(62)] (66) (a) "Wine" means [~~any~~] an alcoholic beverage obtained by the fermentation
493 of the natural sugar content of fruits, plants, honey, or milk, or [~~any~~] other like substance,
494 whether or not [~~other ingredients are~~] another ingredient is added.

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

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

498 **32A-1-116. Purchase of liquor.**

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

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

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

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

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

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

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

511 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

514 (i) against:

515 (A) a permittee;

516 (B) a licensee;

517 (C) a manufacturer;

518 (D) a supplier;

519 (E) an importer;

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

521 or

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

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

524 (II) a package agent; and

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

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

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

530 (i) the commission;

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

533 (iii) the director; and

534 (iv) the department.

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

538 (i) the commission;

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

540 (iii) the director; and

541 (iv) the department.

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

544 (i) video or audio recorded; and

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

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

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

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

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

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

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

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

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

564 (II) conclusions of law; and

565 (III) recommendations.

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

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

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

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

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

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

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

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

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

585 (i) if required by law;

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

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

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

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

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

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

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

601 (A) administer oaths or affirmations;

602 (B) take evidence;

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

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

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

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

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

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

- 615 (iv) (A) A person is not excused from obeying a subpoena without just cause.
- 616 (B) Any district court within the judicial district in which a person alleged to be guilty
617 of willful contempt of court or refusal to obey a subpoena is found or resides, upon application
618 by the party issuing the subpoena, may issue an order requiring the person to:
- 619 (I) appear before the issuing party; and
- 620 (II) (Aa) produce documentary evidence if so ordered; or
- 621 (Bb) give evidence regarding the matter in question.
- 622 (C) Failure to obey an order of the court may be punished by the court as contempt.
- 623 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing
624 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.
- 625 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
626 recommend a penalty more severe than that initially sought by the department in the notice of
627 agency action.
- 628 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
629 shall be served upon the respective parties.
- 630 (iv) The respondent and the department shall be given reasonable opportunity to file
631 any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
632 before final commission action.
- 633 (h) In all cases heard by the commission, it shall issue its final decision and order in
634 accordance with Subsection (3).
- 635 (6) (a) The commission shall:
- 636 (i) render a final decision and order on any disciplinary action; and
- 637 (ii) cause its final order to be prepared in writing, issued, and served on all parties.
- 638 (b) ~~Any~~ An order of the commission is considered final on the date the order
639 becomes effective.
- 640 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
641 through (G) has committed a violation of this title or the commission's rules, in accordance
642 with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:
- 643 (i) suspend or revoke the permit, license, or certificate of approval;
- 644 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
- 645 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the

646 licensee, or certificate holder; or

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

648 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
649 32A-1-107(1)(p) and (4).

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

652 (A) during the suspension;

653 (B) by the permittee or licensee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

693 (I) directly committed the violation; or

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

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

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

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

704 (ii) imposition of a fine.

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

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

710 (ii) the alleged violation involves:

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

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

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

716 (D) interfering or refusing to cooperate with:

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

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

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

722 (F) unlawful importation of alcoholic products; or

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

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

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

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

729 or

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

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

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

734 **32A-1-122. Liquor prices -- School lunch program.**

735 (1) For purposes of this section:

736 (a) "Landed case cost" means:

737 (i) the cost of the product; and

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

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

741 (2) (a) Except as provided in Subsections (2)(b) and (c), ~~[aH]~~ spirituous liquor and
742 wine sold by the department within the state shall be marked up in an amount not less than
743 86% above the landed case cost to the department.

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

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

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

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

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

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

764 ~~[(4)]~~ (5) Ten percent of the total gross revenue from sales of ~~[spiritous]~~ spirituous
765 liquor, wine, ~~[and]~~ heavy beer, and flavored malt beverages shall be deposited by the
766 department with the state treasurer and credited to the Uniform School Fund to be used to
767 support the school lunch program administered by the State Board of Education under Section
768 53A-19-201.

769 ~~[(5)]~~ (6) Nothing in this section prohibits the department from selling discontinued

770 items at a discount.

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

772 **32A-1-302. Presentation of proof of age upon request.**

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

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

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

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

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

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

783 (b) a peace officer;

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

786 (d) an authorized employee of the department.

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

788 **32A-1-304. Acceptance of identification -- Evidence.**

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

792 (a) proof of age; or

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

794 (i) proof of age; and

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

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

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

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

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

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

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

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

810 **32A-1-701. Title.**

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

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

813 **32A-1-702. Requirement for a criminal background check.**

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

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

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

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

819 (ii) the Federal Bureau of Investigation.

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

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

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

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

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

825 operate a package agency or for a license is:

826 (i) a partner;

827 (ii) a managing agent;

828 (iii) a manager;

829 (iv) an officer;

830 (v) a director;

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

832 corporation;

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

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

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

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

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

838 (ii) is licensed by the commission.

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

840 an entity's:

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

842 (b) renewal of a license.

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

844 employee:

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

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

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

848 (ii) the Federal Bureau of Investigation.

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

850 **32A-1-703. Use of information from a criminal background check.**

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

852 32A-1-702 only for one or more of the following purposes:

853 (1) enforcing this title;

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

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

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

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

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

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

860 beverage;

861 (c) a crime involving moral turpitude; or

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

- 863 influence of alcohol, a drug, or the combined influence of alcohol and a drug;
864 (3) determining whether or not an individual fails to accurately disclose the person's
865 criminal history on an application or document filed with the department or commission;
866 (4) approving or denying an application for employment with the department;
867 (5) taking disciplinary action against an employee of the department, including
868 possible termination of employment;
869 (6) granting or denying an application to operate a package agency;
870 (7) granting or denying an application for a license;
871 (8) granting or denying the renewal of a package agency contract;
872 (9) granting or denying the renewal of a license;
873 (10) suspending the operation of a package agency;
874 (11) terminating a package agency contract; or
875 (12) suspending or revoking a license.

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

877 **32A-1-704. Criminal background check procedure.**

- 878 (1) (a) An individual described in Subsections 32A-1-702(2)(b) through (e) shall
879 provide a fingerprint card at the expense of the individual.
880 (b) The department shall pay the expense of obtaining a fingerprint card required of:
881 (i) an applicant for employment with the department; or
882 (ii) an employee of the department.
883 (2) (a) The department shall obtain information from a criminal history record
884 maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part
885 2, Bureau of Criminal Identification, for a purpose outlined in Section 32A-1-703.
886 (b) An individual described in Subsections 32A-1-702(2)(b) through (e) shall pay to
887 the department the expense of obtaining the criminal history record described in Subsection
888 (2)(a).
889 (c) The department shall pay the expense of obtaining the criminal history record
890 required for:
891 (i) an applicant for employment with the department; or
892 (ii) an employee of the department.
893 (3) (a) The department shall submit a fingerprint card obtained under Section

894 32A-1-702 of an individual who has not resided in the state for at least two years before the day
895 on which the fingerprint card is submitted to the Utah Bureau of Criminal Identification to be
896 forwarded to the Federal Bureau of Investigation for a nationwide criminal history record
897 check.

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

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

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

904 (ii) an employee of the department.

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

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

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

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

915 (A) review the criminal history record; and

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

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

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

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

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

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

- 925 (b) a criminal history record received from:
926 (i) the Utah Bureau of Criminal Identification; and
927 (ii) the Federal Bureau of Investigation.

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

929 **Part 8. Malted Beverages Act**

930 **32A-1-801. Title.**

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

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

933 **32A-1-802. Definitions.**

934 As used in this part:

935 (1) "Malted beverages" means:

936 (a) beer;

937 (b) a flavored malt beverage; and

938 (c) heavy beer.

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

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

942 **32A-1-803. Power of the commission and department to classify flavored malt**
943 **beverages.**

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

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

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

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

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

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

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

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

963 (a) a statement of process; or

964 (b) a formula.

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

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

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

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

975 (iv) (A) is not one for which the producer is required to file a formula for approval with
976 the United States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec.
977 25.55; or

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

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

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

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

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

986 **32A-1-804. Requirements for labeling and packaging -- Authority of the**

987 **commission and department.**

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

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

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

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

993 and

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

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

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

1000 (a) beer;

1001 (b) ale;

1002 (c) porter;

1003 (d) stout;

1004 (e) lager;

1005 (f) lager beer; or

1006 (g) another class or type designation commonly applied to a malted beverage that
1007 conveys by a recognized term that the product contains alcohol.

1008 Section 15. Section **32A-1-805** is enacted to read:

1009 **32A-1-805. General procedure for approval.**

1010 (1) To obtain approval of the label and packaging of a malted beverage, the
1011 manufacturer of the malted beverage shall submit an application to the department for
1012 approval.

1013 (2) The application described in Subsection (1) shall be on a form approved by the
1014 department and include the following:

1015 (a) a copy of a federal certificate of label approval from the Department of Treasury,
1016 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking
1017 approval;

- 1018 (b) a complete set of original labels for each size of container of the malted beverage;
1019 (c) a description of the size of the container on which a label will be placed;
1020 (d) a description of each type of container of the malted beverage; and
1021 (e) a description of any packaging for the malted beverage.
1022 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1023 approval.
1024 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1025 which the manufacturer submits an application whether the label and packaging is approved or
1026 denied.
1027 (b) If the department determines that an unusual circumstance requires additional time,
1028 the department may extend the time period described in Subsection (4)(a).
1029 (5) A manufacturer shall obtain the approval of the department of a revision of a
1030 previously approved label and packaging before a malted beverage using the revised label and
1031 packaging may be distributed or sold in this state.
1032 (6) (a) The department may revoke a label and packaging previously approved upon a
1033 finding that the label and packaging is not in compliance with this title or rules of the
1034 commission.
1035 (b) The department shall notify the person that applies for the approval of a label and
1036 packaging at least five business days before the day on which a label and packaging approval is
1037 considered revoked.
1038 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1039 argument or evidence to the department on why the revocation should not occur.
1040 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1041 denial or revocation of a label and packaging approval to the commission.
1042 Section 16. Section **32A-1-806** is enacted to read:
1043 **32A-1-806. Special procedure for flavored malt beverages.**
1044 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a
1045 label or package used for a nonalcoholic beverage, beginning October 1, 2008, a manufacturer
1046 of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state
1047 until the day on which the manufacturer receives approval of the labeling and packaging from
1048 the department in accordance with:

1049 (a) Sections 32A-1-804 and 32A-1-805; and

1050 (b) this section.

1051 (2) The department may not approve the labeling and packaging of a flavored malt

1052 beverage described in Subsection (1) unless in addition to the requirements of Section

1053 32A-1-804 the labeling and packaging complies with the following:

1054 (a) The label on the flavored malt beverage shall bear a prominently displayed label or

1055 a firmly affixed sticker that provides the following information:

1056 (i) the statement:

1057 (A) "alcoholic beverage"; or

1058 (B) "contains alcohol"; and

1059 (ii) the alcohol content of the flavored malt beverage.

1060 (b) Any packaging of the flavored malt beverage shall prominently include, either

1061 imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the

1062 statement:

1063 (i) "alcoholic beverage"; or

1064 (ii) "contains alcohol".

1065 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required

1066 by rule made by the commission in accordance with Title 63, Chapter 46a, Utah Administrative

1067 Rulemaking Act.

1068 (d) A statement of alcohol content required by Subsection (2)(a)(ii):

1069 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;

1070 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"

1071 or "weight"; and

1072 (iii) shall be in a format required by rule made by the commission:

1073 (3) The department may reject a label or packaging that appears designed to obscure

1074 the information required by Subsection (2).

1075 (4) To determine whether or not a flavored malt beverage is described in Subsection

1076 (1) and subject to this section, the department may consider in addition to other factors one or

1077 more of the following factors:

1078 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:

1079 (i) is similar to those of a nonalcoholic beverage or product; or

- 1080 (ii) can be confused with a nonalcoholic beverage;
- 1081 (b) whether the flavored malt beverage possesses a character and flavor distinctive
- 1082 from a traditional malted beverage;
- 1083 (c) whether the flavored malt beverage is:
- 1084 (i) prepackaged;
- 1085 (ii) contains high levels of caffeine and other additives; and
- 1086 (iii) marketed as a beverage that is specifically designed to provide energy;
- 1087 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;

1088 or

- 1089 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor
- 1090 that masks the taste of a traditional malted beverage.

1091 Section 17. Section **32A-1-807** is enacted to read:

1092 **32A-1-807. Rulemaking authority.**

1093 The commission may adopt rules necessary to implement this part.

1094 Section 18. Section **32A-1-808** is enacted to read:

1095 **32A-1-808. Disciplinary proceeding for violation.**

1096 A person who violates this part is subject to a disciplinary proceeding under Section

1097 32A-1-119.

1098 Section 19. Section **32A-1-809** is enacted to read:

1099 **32A-1-809. Transition protections.**

1100 (1) Except as provided in Subsection (3), a manufacturer of a flavored malt beverage

1101 may not be held liable under this title for distributing or selling a flavored malt beverage as a

1102 beer if:

1103 (a) the flavored malt beverage is distributed or sold on or before September 30, 2008;

1104 and

1105 (b) the manufacturer when distributing or selling the flavored malt beverage complies

1106 with the requirements of this title for distributing or selling a beer including holding:

1107 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

1108 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

1109 (2) Except as provided in Subsection (3), a licensee or permittee may not be held liable

1110 for the sale, offering, or furnishing of a flavored malt beverage as a beer if:

1111 (a) the flavored malt beverage is sold, offered, or furnished on or before September 30,
1112 2008; and

1113 (b) the licensee or permittee when selling, offering, or furnishing the flavored malt
1114 beverage complies with the requirements of this title for selling, offering, or furnishing a beer
1115 under the license or permit held by the licensee or permittee.

1116 (3) This section does not apply to liability under Chapter 14a, Alcoholic Beverage
1117 Liability.

1118 Section 20. Section **32A-2-101** is amended to read:

1119 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1120 (1) (a) The commission may establish state stores in numbers and at places, owned or
1121 leased by the department, [it] the commission considers proper for the sale of liquor, by
1122 employees of the state, in accordance with this title and the rules made under this title.

1123 (b) [~~Employees of state stores are~~] An employee of a state store is considered
1124 [~~employees~~] an employee of the department and shall meet all qualification requirements for
1125 employment [~~outlined~~] in Section 32A-1-111.

1126 (2) (a) The total number of state stores may not at any time aggregate more than that
1127 number determined by dividing the population of the state by 48,000.

1128 (b) For purposes of this Subsection (2), population shall be determined by:

1129 (i) the most recent United States decennial or special census; or

1130 (ii) [~~any other~~] another population determination made by the United States or state
1131 governments.

1132 (3) (a) [~~A~~] Except as provided in Subsection (3)(b) or (c), a state store may not be
1133 established;

1134 (i) within 600 feet of [~~any public or private school, church, public library, public~~
1135 ~~playground, or park~~] a community location, as measured by the method in Subsection [(4):]
1136 (3)(d); or

1137 [~~(b) A state store may not be established]~~

1138 (ii) within 200 feet of [~~any public or private school, church, public library, public~~
1139 ~~playground, or park~~] a community location, measured in a straight line from the nearest
1140 entrance of the proposed state store to the nearest property boundary of the [~~public or private~~
1141 ~~school, church, public library, public playground, or park~~] community location.

1142 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
1143 ~~following exceptions applies:]~~

1144 ~~[(i) with] (b) With~~ respect to the establishment of a state store ~~[within a city of the~~
1145 ~~third, fourth, or fifth class, a town, or the unincorporated area of a county],~~ the commission
1146 may authorize a variance that reduces the proximity ~~[requirements] requirement~~ of Subsection
1147 (3)(a)~~(i) [or (b)]~~ if:

1148 ~~[(A)] (i) the commission finds that~~ alternative locations for establishing a state store in
1149 the community are limited;

1150 ~~[(B)] (ii) a public hearing [has been] is~~ held in the city, town, or county, and where
1151 practical in the neighborhood concerned; ~~[and]~~

1152 ~~[(C)] (iii) after giving full consideration to all of the attending circumstances and the~~
1153 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
1154 ~~establishing the state store would not be detrimental to the public health, peace, safety, and~~
1155 ~~welfare of the community; [or] and~~

1156 ~~[(ii) with respect to the establishment of a state store in any location, the commission~~
1157 ~~may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in~~
1158 ~~relation to a church:]~~

1159 ~~[(A) if the local governing body of the church in question gives its written consent to~~
1160 ~~the variance;]~~

1161 ~~[(B) following a public hearing in the county, and where practical in the neighborhood~~
1162 ~~concerned; and]~~

1163 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
1164 ~~policies stated in Subsections 32A-1-104(3) and (4).]~~

1165 ~~[(4) With respect to any public or private school, church, public library, public~~
1166 ~~playground, or park, the]~~

1167 (iv) (A) the community location governing authority gives its written consent to the
1168 variance; or

1169 (B) when written consent is not given by the community location governing authority,
1170 the commission finds that:

1171 (I) there is substantial unmet public demand to consume alcohol within the geographic
1172 boundary of the local authority in which the state store is to be located;

1173 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1174 described in Subsection (3)(b)(iv)(B)(I) other than through the establishment of a state store;
1175 and

1176 (III) there is no reasonably viable alternative location within the geographic boundary
1177 of the local authority in which the state store is to be located for establishing a state store to
1178 satisfy the unmet demand described in Subsection (3)(b)(iv)(B)(I).

1179 (c) With respect to the establishment of a state store, the commission may authorize a
1180 variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:

1181 (i) the community location at issue is:

1182 (A) a public library; or

1183 (B) a public park;

1184 (ii) the commission finds that alternative locations for establishing a state store in the
1185 community are limited;

1186 (iii) a public hearing is held in the city, town, or county, and where practical in the
1187 neighborhood concerned;

1188 (iv) after giving full consideration to all of the attending circumstances and the policies
1189 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1190 state store would not be detrimental to the public health, peace, safety, and welfare of the
1191 community; and

1192 (v) (A) the community location governing authority gives its written consent to the
1193 variance; or

1194 (B) when written consent is not given by the community location governing authority,
1195 the commission finds that:

1196 (I) there is substantial unmet public demand to consume alcohol within the geographic
1197 boundary of the local authority in which the state store is to be located;

1198 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1199 described in Subsection (3)(c)(v)(B)(I) other than through the establishment of a state store;
1200 and

1201 (III) there is no reasonably viable alternative location within the geographic boundary
1202 of the local authority in which the state store is to be located for establishing a state store to
1203 satisfy the unmet demand described in Subsection (3)(c)(v)(B)(I).

1204 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1205 nearest entrance of the state store by following the shortest route of ordinary pedestrian travel
1206 to the property boundary of the [~~public or private school, church, public library, public~~
1207 ~~playground, school playground, or park~~] community location.

1208 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the
1209 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1210 reaching a decision on a proposed location.

1211 (b) For purposes of this Subsection [~~(5)~~] (4), "educational facility" includes:

- 1212 (i) a nursery school;
- 1213 (ii) an infant day care center; and
- 1214 (iii) a trade and technical school.

1215 Section 21. Section **32A-3-101** is amended to read:

1216 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1217 (1) (a) The commission may, when [~~considered~~] it considers necessary, create a
1218 package [~~agencies~~] agency by entering into a contractual [~~relationships with persons~~]
1219 relationship with a person to sell liquor in sealed packages from premises other than those
1220 owned or leased by the state.

1221 (b) The commission shall authorize a person to operate a package agency by issuing a
1222 certificate from the commission that designates the person in charge of the agency as a
1223 "package agent" as defined under Section 32A-1-105.

1224 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at
1225 any time aggregate more than that number determined by dividing the population of the state
1226 by 18,000.

1227 (b) For purposes of Subsection (2)(a), population shall be determined by:

- 1228 (i) the most recent United States decennial or special census; or
- 1229 (ii) [~~any other~~] another population determination made by the United States or state
1230 governments.

1231 (c) (i) The commission may establish seasonal package agencies established in areas
1232 the commission considers necessary.

1233 (ii) A seasonal package agency shall be for a period of six consecutive months.

1234 (iii) A package agency established for operation during a summer time period is known

1235 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency shall:

1236 (A) begin on May 1; and

1237 (B) end on October 31.

1238 (iv) A package agency established for operation during a winter time period is known as

1239 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency shall:

1240 (A) begin on November 1; and

1241 (B) end on April 30.

1242 (v) In determining the number of package agencies that the commission may establish

1243 under this section:

1244 (A) a seasonal package agency is counted as 1/2 of one package agency; and

1245 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency.

1246 (d) (i) If the location, design, and construction of a hotel may require more than one

1247 package agency sales location to serve the public convenience, the commission may authorize a

1248 single package agent to sell liquor at as many as three locations within the hotel under one

1249 package agency if:

1250 (A) the hotel has a minimum of 150 guest rooms; and

1251 (B) all locations under the agency are:

1252 (I) within the same hotel facility; and

1253 (II) on premises that are managed or operated and owned or leased by the package

1254 agent.

1255 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one sales

1256 location under a single package agency.

1257 (3) (a) ~~[As measured by the method in Subsection (4), the]~~ Except as provided in

1258 Subsection (3)(b), (c), or (d), the premises of a package agency may not be established:

1259 (i) within 600 feet of ~~[any public or private school, church, public library, public~~

1260 ~~playground, or park.]~~ a community location, as measured by the method described in

1261 Subsection (3)(e); or

1262 ~~[(b) The premises of a package agency may not be established]~~

1263 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~

1264 ~~playground, or park]~~ a community location, measured in a straight line from the nearest

1265 entrance of the proposed package agency to the nearest property boundary of the ~~[public or~~

1266 private school, church, public library, public playground, or park] community location.
1267 [~~(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
1268 following exemptions applies:]
1269 [~~(i) with~~] (b) With respect to the establishment of a package agency [~~within a city of~~
1270 ~~the third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the commission
1271 may authorize a variance to reduce the proximity [~~requirements~~] requirement of Subsection
1272 (3)(a)(i) [~~or (b)~~] if:
1273 [~~(A)~~] (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the
1274 variance;
1275 [~~(B)~~] (ii) the commission finds that alternative locations for establishing a package
1276 agency in the community are limited;
1277 [~~(C)~~] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where
1278 practical in the neighborhood concerned; [~~and~~]
1279 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the
1280 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1281 establishing the package agency would not be detrimental to the public health, peace, safety,
1282 and welfare of the community; and
1283 [~~(ii) with respect to the establishment of a package agency in any location, the~~
1284 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~
1285 ~~(3)(a) or (b) in relation to a church:]~~
1286 [~~(A) if the local governing body of the church in question gives its written consent to~~
1287 ~~the variance;]~~
1288 [~~(B) following a public hearing in the city, town, or county and where practical in the~~
1289 ~~neighborhood concerned; and]~~
1290 [~~(C) after giving full consideration to all of the attending circumstances and the~~
1291 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~
1292 (v) (A) the community location governing authority gives its written consent to the
1293 variance; or
1294 (B) when written consent is not given by the community location governing authority,
1295 the commission finds that the applicant has established that:
1296 (I) there is substantial unmet public demand to consume alcohol within the geographic

1297 boundary of the local authority in which the package agency is to be located;
1298 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1299 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a package
1300 agency; and
1301 (III) there is no reasonably viable alternative location within the geographic boundary
1302 of the local authority in which the package agency is to be located for establishing a package
1303 agency to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).
1304 (c) With respect to the establishment of a package agency, the commission may
1305 authorize a variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:
1306 (i) the community location at issue is:
1307 (A) a public library; or
1308 (B) a public park;
1309 (ii) the local authority grants its written consent to the variance;
1310 (iii) the commission finds that alternative locations for establishing a package agency
1311 in the community are limited;
1312 (iv) a public hearing is held in the city, town, or county, and where practical in the
1313 neighborhood concerned;
1314 (v) after giving full consideration to all of the attending circumstances and the policies
1315 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1316 package agency would not be detrimental to the public health, peace, safety, and welfare of the
1317 community; and
1318 (vi) (A) the community location governing authority gives its written consent to the
1319 variance; or
1320 (B) when written consent is not given by the community location governing authority,
1321 the commission finds that the applicant has established that:
1322 (I) there is substantial unmet public demand to consume alcohol within the geographic
1323 boundary of the local authority in which the package agency is to be located;
1324 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1325 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of a package
1326 agency; and
1327 (III) there is no reasonably viable alternative location within the geographic boundary

1328 of the local authority in which the package agency is to be located for establishing a package
1329 agency to satisfy the unmet demand described in Subsection (3)(c)(vi)(B)(I).

1330 ~~[(iii) with]~~ (d) With respect to the premises of a package agency issued by the
1331 commission that undergoes a change of ownership, the commission may waive or vary the
1332 proximity requirements of Subsection (3)(a) ~~[or (b)]~~ in considering whether to grant a package
1333 agency to the new owner of the premises if:

1334 (i) (A) the premises previously received a variance reducing the proximity
1335 ~~[requirements]~~ requirement of Subsection (3)(a)(i) ~~[or (b)]~~; or

1336 (B) the premises received a variance reducing the proximity requirement of Subsection
1337 (3)(a)(ii) on or before May 4, 2008; or

1338 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
1339 under this title.

1340 ~~[(4) With respect to any public or private school, church, public library, public~~
1341 ~~playground, or park, the]~~

1342 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1343 nearest entrance of the package agency by following the shortest route of ordinary pedestrian
1344 travel to the property boundary of the ~~[public or private school, church, public library, public~~
1345 ~~playground, school playground, or park]~~ community location.

1346 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the
1347 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1348 reaching a decision on a proposed location.

1349 (b) For purposes of Subsection ~~[(5)]~~ (4)(a), "educational facility" includes:

1350 (i) a nursery school;

1351 (ii) an infant day care center; and

1352 (iii) a trade and technical school.

1353 ~~[(6)]~~ (5) (a) The package agent, under the direction of the department, ~~[shall be]~~ is
1354 responsible for implementing and enforcing this title and the rules adopted under this title to
1355 the extent they relate to the conduct of the package agency and its sale of liquor.

1356 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1357 entitled to any benefits of employment from the state.

1358 (c) A package agent, when selling liquor from a package agency, is considered an agent

1359 of the state only to the extent specifically expressed in the package agency agreement.

1360 ~~[(7)]~~ (6) The commission may prescribe by policy, directive, or rule, consistent with
1361 this title, general operational requirements of all package agencies relating to:

1362 (a) physical facilities;

1363 (b) conditions of operation;

1364 (c) hours of operation;

1365 (d) inventory levels;

1366 (e) payment schedules;

1367 (f) methods of payment;

1368 (g) premises security; and

1369 (h) any other matters considered appropriate by the commission.

1370 Section 22. Section **32A-3-102** is amended to read:

1371 **32A-3-102. Application requirements.**

1372 (1) A person seeking to operate a package agency as a package agent under this chapter
1373 shall file a written application with the department in a form prescribed by the department.

1374 (2) The application shall be accompanied by:

1375 (a) a nonrefundable application fee of \$100;

1376 (b) written consent of the local authority;

1377 (c) evidence of proximity to any ~~[public or private school, church, public library,~~
1378 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
1379 ~~Subsections 32A-3-101(3) and (4), the application shall be processed in accordance with those~~
1380 ~~subsections]~~ community location, with proximity requirements being governed by Section
1381 32A-3-101;

1382 (d) a bond as specified by Section 32A-3-105;

1383 (e) a floor plan of the premises, including a description and highlighting of that part of
1384 the premises in which the applicant proposes that the package agency be established;

1385 (f) evidence that the package agency is carrying public liability insurance in an amount
1386 and form satisfactory to the department;

1387 (g) a signed consent form stating that the package agent will permit any authorized
1388 representative of the commission, department, or any law enforcement officer to have
1389 unrestricted right to enter the package agency;

1390 (h) in the case of an applicant that is a partnership, corporation, or limited liability
1391 company, proper verification evidencing that the person or persons signing the package agency
1392 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1393 company; and

1394 (i) any other information as the commission or department may direct.

1395 Section 23. Section **32A-4-101** is amended to read:

1396 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1397 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it
1398 shall first obtain a license from the commission as provided in this part.

1399 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
1400 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
1401 consumption of liquor on premises operated as public restaurants.

1402 (3) (a) Subject to the other provisions of this Subsection (3), the total number of
1403 restaurant liquor licenses may not at any time aggregate more than that number determined by
1404 dividing the population of the state by 5,200.

1405 (b) For purposes of this Subsection (3), population shall be determined by:

1406 (i) the most recent United States decennial or special census; or

1407 (ii) [~~any other~~] another population determination made by the United States or state
1408 governments.

1409 (c) (i) The commission may issue seasonal restaurant liquor licenses established in
1410 areas the commission considers necessary.

1411 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1412 (iii) A restaurant liquor license issued for operation during a summer time period is
1413 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"
1414 restaurant liquor license shall:

1415 (A) begin on May 1; and

1416 (B) end on October 31.

1417 (iv) A restaurant liquor license issued for operation during a winter time period is
1418 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"
1419 restaurant liquor license shall:

1420 (A) begin on November 1; and

1421 (B) end on April 30.

1422 (v) In determining the number of restaurant liquor licenses that the commission may
1423 issue under this section:

1424 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and
1425 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1426 (d) (i) If the location, design, and construction of a hotel may require more than one
1427 restaurant liquor sales location within the hotel to serve the public convenience, the
1428 commission may authorize the sale of liquor at as many as three restaurant locations within the
1429 hotel under one license if:

1430 (A) the hotel has a minimum of 150 guest rooms; and
1431 (B) all locations under the license are:
1432 (I) within the same hotel facility; and
1433 (II) on premises that are managed or operated and owned or leased by the licensee.

1434 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate restaurant
1435 liquor license for each restaurant where liquor is sold.

1436 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b), (c), or (d), the premises of a
1437 restaurant liquor license may not be established:

1438 (i) within 600 feet of [any public or private school, church, public library, public
1439 playground, or park,] a community location, as measured by the method in Subsection [(5):]
1440 (4)(e);

1441 ~~[(b) The premises of a restaurant liquor license may not be established]~~

1442 (ii) within 200 feet of [any public or private school, church, public library, public
1443 playground, or park] a community location, measured in a straight line from the nearest
1444 entrance of the proposed outlet to the nearest property boundary of the [public or private
1445 school, church, public library, public playground, or park] community location.

1446 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
1447 ~~following exemptions applies:]~~

1448 ~~[(i) with]~~ (b) With respect to the establishment of a restaurant liquor license ~~[in any~~
1449 ~~location],~~ the commission may authorize a variance to reduce the proximity ~~[requirements]~~
1450 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

1451 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the

1452 variance;

1453 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a restaurant
1454 liquor license in the community are limited;

1455 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
1456 practical in the neighborhood concerned; ~~[and]~~

1457 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
1458 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1459 establishing the restaurant liquor license would not be detrimental to the public health, peace,
1460 safety, and welfare of the community; ~~[or]~~ and

1461 (v) (A) the community location governing authority gives its written consent to the
1462 variance; or

1463 (B) when written consent is not given by the community location governing authority,
1464 the commission finds that the applicant has established that:

1465 (I) there is substantial unmet public demand to consume alcohol in a public setting
1466 within the geographic boundary of the local authority in which the restaurant is to be located;

1467 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1468 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant
1469 liquor license; and

1470 (III) there is no reasonably viable alternative location within the geographic boundary
1471 of the local authority in which the restaurant is to be located for establishing a restaurant liquor
1472 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1473 (c) With respect to the establishment of a restaurant liquor license, the commission
1474 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

1475 (i) the community location at issue is:

1476 (A) a public library; or

1477 (B) a public park;

1478 (ii) the local authority grants its written consent to the variance;

1479 (iii) the commission finds that alternative locations for establishing a restaurant liquor
1480 license in the community are limited;

1481 (iv) a public hearing is held in the city, town, or county, and where practical in the
1482 neighborhood concerned;

1483 (v) after giving full consideration to all of the attending circumstances and the policies
 1484 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
 1485 restaurant liquor license would not be detrimental to the public health, peace, safety, and
 1486 welfare of the community; and

1487 (vi) (A) the community location governing authority gives its written consent to the
 1488 variance; or

1489 (B) when written consent is not given by the community location governing authority,
 1490 the commission finds that the applicant has established that:

1491 (I) there is substantial unmet public demand to consume alcohol in a public setting
 1492 within the geographic boundary of the local authority in which the restaurant is to be located;

1493 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
 1494 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a restaurant
 1495 liquor license; and

1496 (III) there is no reasonably viable alternative location within the geographic boundary
 1497 of the local authority in which the restaurant is to be located for establishing a restaurant liquor
 1498 license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1499 ~~[(ii) with]~~ (d) With respect to the premises of a restaurant liquor license issued by the
 1500 commission that undergoes a change of ownership, the commission may waive or vary the
 1501 proximity requirements of Subsection (4)(a) ~~[or (b)]~~ in considering whether to grant a
 1502 restaurant liquor license to the new owner of the premises if:

1503 (i) (A) the premises previously received a variance reducing the proximity
 1504 [requirements] requirement of Subsection (4)(a)(i) ~~[or (b)]~~; or

1505 (B) the premises received a variance reducing the proximity requirement of Subsection
 1506 (4)(a)(ii) on or before May 4, 2008; or

1507 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
 1508 under this title.

1509 ~~[(5) With respect to any public or private school, church, public library, public~~
 1510 ~~playground, or park, the]~~

1511 (e) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the
 1512 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
 1513 [property boundary of the public or private school, church, public library, public playground,

1514 ~~school playground, or park]~~ community location.

1515 [(6)] (5) (a) Nothing in this section prevents the commission from considering the
1516 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1517 reaching a decision on a proposed location.

1518 (b) For purposes of this Subsection [(6)] (5), "educational facility" includes:

1519 (i) a nursery school;

1520 (ii) an infant day care center; and

1521 (iii) a trade and technical school.

1522 Section 24. Section **32A-4-102** is amended to read:

1523 **32A-4-102. Application and renewal requirements.**

1524 (1) A person seeking a restaurant liquor license under this part shall file a written
1525 application with the department, in a form prescribed by the department. It shall be
1526 accompanied by:

1527 (a) a nonrefundable \$250 application fee;

1528 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1529 (c) written consent of the local authority;

1530 (d) a copy of the applicant's current business license;

1531 (e) evidence of proximity to any [~~public or private school, church, public library,~~
1532 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
1533 ~~Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those~~
1534 ~~subsections]~~ community location, with proximity requirements being governed by Section
1535 32A-4-101;

1536 (f) a bond as specified by Section 32A-4-105;

1537 (g) a floor plan of the restaurant, including consumption areas and the area where the
1538 applicant proposes to keep, store, and sell liquor;

1539 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1540 form satisfactory to the department;

1541 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1542 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1543 (j) a signed consent form stating that the restaurant will permit any authorized
1544 representative of the commission, department, or any law enforcement officer unrestricted right

1545 to enter the restaurant;

1546 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1547 company, proper verification evidencing that the person or persons signing the restaurant
1548 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1549 company; and

1550 (l) any other information the commission or department may require.

1551 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1552 (b) [~~Persons~~] A person desiring to renew [~~their~~] the person's restaurant liquor license
1553 shall by no later than September 30 submit:

1554 (i) a completed renewal application to the department; and

1555 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1556 under \$5,000	\$750
1557 equals or exceeds \$5,000 but less than \$10,000	\$900
1558 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1559 equals or exceeds \$25,000	\$1,500

1561 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1562 the license effective on the date the existing license expires.

1563 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by
1564 the department.

1565 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may
1566 suspend or revoke [~~any~~] a restaurant liquor license if the restaurant liquor licensee does not
1567 immediately notify the department of any change in:

1568 (a) ownership of the restaurant;

1569 (b) for a corporate owner, the:

1570 (i) corporate officers or directors; or

1571 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1572 corporation; or

1573 (c) for a limited liability company:

1574 (i) managers; or

1575 (ii) members owning at least 20% of the limited liability company.

1576 Section 25. Section **32A-4-104** is amended to read:

1577 **32A-4-104. Commission and department duties before granting licenses.**

1578 (1) (a) Before a restaurant liquor license may be granted by the commission, the
1579 department shall conduct an investigation and may hold public hearings for the purpose of
1580 gathering information and making recommendations to the commission as to whether or not a
1581 license should be granted. [~~This~~]

1582 (b) The department shall forward the information [shall be forwarded] and
1583 recommendations described in Subsection (1)(a) to the commission to aid in [its] the
1584 commission's determination.

1585 (2) Before issuing [~~any~~] a restaurant liquor license, the commission shall:

1586 (a) determine that:

1587 (i) the applicant has complied with all basic qualifications and requirements for making
1588 application for a license as provided by Sections 32A-4-102 and 32A-4-103[;]; and [~~that~~]

1589 (ii) the application is complete;

1590 (b) consider the locality within which the proposed restaurant liquor outlet is located,
1591 including [~~but not limited to~~]:

1592 (i) physical characteristics such as:

1593 (A) condition of the premises[;];

1594 (B) square footage[;]; and

1595 (C) parking availability; and

1596 (ii) operational factors such as:

1597 (A) tourist traffic[;];

1598 (B) proximity to and density of other state stores, package agencies, and outlets[;];

1599 (C) demographics[;];

1600 (D) population to be served[;]; and

1601 (E) the extent of and proximity to any [~~school, church, public library, public~~
1602 ~~playground, or park~~] community location;

1603 (c) consider the applicant's ability to manage and operate a restaurant liquor license,
1604 including [~~but not limited to~~]:

1605 (i) management experience[;];

1606 (ii) past retail liquor experience[;]; and

- 1607 (iii) the type of management scheme employed by the restaurant;
- 1608 (d) consider the nature or type of restaurant operation of the proposed liquor licensee,
- 1609 including [~~but not limited to,~~];
- 1610 (i) the type of menu items offered and emphasized[;];
- 1611 (ii) whether the restaurant emphasizes service to an adult clientele or to minors[;];
- 1612 (iii) the hours of operation[;];
- 1613 (iv) the seating capacity of the facility[;]; and
- 1614 (v) the gross sales of food items; and
- 1615 (e) consider any other factors or circumstances [it] the commission considers
- 1616 necessary.

1617 Section 26. Section **32A-4-106** is amended to read:

1618 **32A-4-106. Operational restrictions.**

1619 [~~Each~~] A person granted a restaurant liquor license and the employees and management

1620 personnel of the restaurant shall comply with the following conditions and requirements.

1621 Failure to comply may result in a suspension or revocation of the restaurant liquor license or

1622 other disciplinary action taken against individual employees or management personnel.

1623 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state

1624 [~~stores~~] store or package [~~agencies~~] agency.

1625 (b) Liquor purchased from a state store or package agency may be transported by the

1626 restaurant liquor licensee from the place of purchase to the licensed premises.

1627 (c) Payment for liquor shall be made in accordance with rules established by the

1628 commission.

1629 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in

1630 a quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage dispensed through a calibrated

1631 metered dispensing system approved by the department in accordance with commission rules

1632 adopted under this title, except that:

1633 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing

1634 system if used as a secondary flavoring ingredient in a beverage subject to the following

1635 restrictions:

1636 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of

1637 a primary spirituous liquor;

1638 (ii) the secondary ingredient [~~is~~] may not be the only spirituous liquor in the beverage;

1639 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1640 on the floor plan provided to the department; and

1641 (iv) [~~all~~] a flavoring [~~containers~~] container shall be plainly and conspicuously labeled
1642 "flavorings";

1643 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1644 system if used:

1645 (i) as a flavoring on [~~desserts~~] a dessert; and

1646 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
1647 dessert;

1648 (c) [~~each~~] a restaurant patron may have no more than [~~2.75~~] 2.5 ounces of spirituous
1649 liquor at a time; and

1650 (d) [~~each~~] a restaurant patron may have no more than one spirituous liquor drink at a
1651 time before the patron.

1652 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
1653 exceed five ounces per glass or individual portion.

1654 (ii) An individual portion of wine may be served to a patron in more than one glass as
1655 long as the total amount of wine does not exceed five ounces.

1656 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1657 Subsection (7)(e).

1658 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
1659 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

1660 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
1661 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1662 persons.

1663 (c) A wine service may be performed and a service charge assessed by [~~the~~] a
1664 restaurant liquor licensee as authorized by commission rule for wine purchased at the
1665 restaurant.

1666 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
1667 one liter at [~~prices~~] a price fixed by the commission.

1668 (b) A flavored malt beverage may be served in an original container not exceeding one

1669 liter at a price fixed by the commission.

1670 ~~[(b)]~~ (c) A service charge may be assessed by ~~[the]~~ a restaurant liquor licensee as
1671 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1672 restaurant.

1673 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant ~~[licensed to sell]~~ liquor licensee
1674 may sell beer for on-premise consumption:

1675 (A) in an open container; and

1676 (B) on draft.

1677 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1678 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1679 container that exceeds one liter.

1680 (b) A restaurant ~~[licensed under this chapter]~~ liquor licensee that sells beer pursuant to
1681 Subsection (5)(a):

1682 (i) may do so without obtaining a separate on-premise beer retailer license from the
1683 commission; and

1684 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1685 Retailer Licenses, that apply to an on-premise beer ~~[retailers]~~ retailer except when those
1686 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1687 part.

1688 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1689 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1690 restaurant's:

1691 (i) state liquor license; and

1692 (ii) alcoholic beverage license issued by the local authority.

1693 (6) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in
1694 ~~[any]~~ a place other than as designated in the restaurant liquor licensee's application, unless the
1695 restaurant liquor licensee first applies for and receives approval from the department for a
1696 change of location within the restaurant.

1697 (7) (a) (i) A patron may only make an alcoholic beverage ~~[purchases]~~ purchase in the
1698 restaurant from and be served by a person employed, designated, and trained by the restaurant
1699 liquor licensee to sell and serve an alcoholic ~~[beverages]~~ beverage.

1700 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
1701 bottled wine from an employee of the restaurant or [~~has carried~~] carries bottled wine onto the
1702 premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the
1703 bottle to the patron or others at the patron's table.

1704 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
1705 patron.

1706 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

1707 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
1708 a patron at a bar.

1709 (e) [~~Each~~] A restaurant patron may have no more than two alcoholic beverages of any
1710 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1711 (8) The liquor storage area shall remain locked at all times other than those hours and
1712 days when liquor sales are authorized by law.

1713 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1714 restaurant of a restaurant liquor licensee during the following days or hours:

1715 (i) until after the polls are closed on the day of [~~any~~] a:

1716 (A) regular general election;

1717 (B) regular primary election; or

1718 (C) statewide special election;

1719 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special
1720 service district, or school election, but only:

1721 (A) within the boundaries of the municipality, local district, special service district, or
1722 school district; and

1723 (B) if required by local ordinance; and

1724 (iii) on any other day after 12 midnight and before 12 noon.

1725 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1726 Licenses, for on-premise beer licensees.

1727 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold except in
1728 connection with an order for food prepared, sold, and served at the restaurant.

1729 (11) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
1730 otherwise furnished to [~~any~~] a:

- 1731 (a) minor;
- 1732 (b) person actually, apparently, or obviously intoxicated;
- 1733 (c) known habitual drunkard; or
- 1734 (d) known interdicted person.
- 1735 (12) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 1736 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 1737 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 1738 beverage to the restaurant liquor licensee.
- 1739 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 1740 over consumption or intoxication.
- 1741 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 1742 hours of [~~the restaurant's~~] a restaurant liquor licensee's business day such as a "happy hour."
- 1743 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 1744 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 1745 (f) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic beverages
- 1746 during [~~any~~] a set period may not be sold or served for a fixed price [~~is prohibited~~].
- 1747 (g) A restaurant liquor licensee may not engage in a public promotion involving or
- 1748 offering free an alcoholic [~~beverages~~] beverage to the general public.
- 1749 (13) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
- 1750 a restaurant by:
- 1751 (a) the restaurant liquor licensee; or
- 1752 (b) [~~any~~] an employee or agent of the restaurant liquor licensee.
- 1753 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee [~~any~~]
- 1754 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 1755 discretion of the restaurant liquor licensee, bottled wine onto the premises of [~~any~~] a restaurant
- 1756 liquor licensee for on-premise consumption.
- 1757 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or [~~its~~
- 1758 ~~officers, managers, employees, or agents~~] an officer, manager, employee, or agent of the
- 1759 restaurant liquor licensee may not allow:
- 1760 (i) a person to bring onto the restaurant premises [~~any~~] an alcoholic beverage for
- 1761 on-premise consumption; or

1762 (ii) consumption of [~~any such~~] an alcoholic beverage [~~on its~~] described in this
1763 Subsection (14) on the restaurant liquor licensee's premises.

1764 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1765 or other representative of the restaurant liquor licensee upon entering the restaurant.

1766 (d) A wine service may be performed and a service charge assessed by [~~the~~] a
1767 restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

1768 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee [~~and its~~
1769 ~~employees~~] or an employee of the restaurant liquor licensee may not permit a restaurant patron
1770 to carry from the restaurant premises an open container that:

1771 (i) is used primarily for drinking purposes; and

1772 (ii) contains [~~any~~] an alcoholic beverage.

1773 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1774 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1775 onto the premises of the restaurant in accordance with Subsection (14), [~~provided~~] only if the
1776 bottle [~~has been~~] is recorked or recapped before removal.

1777 (16) (a) A restaurant liquor licensee may not employ a minor [~~may not be employed by~~
1778 ~~a restaurant licensee~~] to sell or dispense an alcoholic [~~beverages~~] beverage.

1779 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1780 employed to enter the sale at a cash register or other sales recording device.

1781 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1782 (a) consume an alcoholic beverage; or

1783 (b) be intoxicated.

1784 (18) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption
1785 of liquor may be stated in food or alcoholic beverage menus including:

1786 (a) a set-up charge;

1787 (b) a service charge; or

1788 (c) a chilling fee.

1789 (19) [~~Each~~] A restaurant liquor licensee shall display in a prominent place in the
1790 restaurant:

1791 (a) the liquor license that is issued by the department;

1792 (b) a list of the types and brand names of liquor being served through its calibrated

1793 metered dispensing system; and

1794 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1795 drugs is a serious crime that is prosecuted aggressively in Utah."

1796 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
1797 licensee:

1798 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1799 Chapter 10, Part 11, Gambling;

1800 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1801 Part 11, Gambling; or

1802 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1803 the risking of something of value for a return or for an outcome when the return or outcome is
1804 based upon an element of chance, excluding the playing of an amusement device that confers
1805 only an immediate and unrecorded right of replay not exchangeable for value.

1806 (21) (a) ~~Each~~ A restaurant liquor licensee shall maintain an expense ledger or record
1807 showing in detail:

1808 (i) quarterly expenditures made separately for:

1809 (A) malt or brewed beverages;

1810 (B) set-ups;

1811 (C) liquor;

1812 (D) food; and

1813 (E) all other items required by the department; and

1814 (ii) sales made separately for:

1815 (A) malt or brewed beverages;

1816 (B) set-ups;

1817 (C) food; and

1818 (D) all other items required by the department.

1819 (b) ~~The~~ A restaurant liquor licensee shall keep a record required by Subsection

1820 (21)(a) ~~shall be kept~~:

1821 (i) in a form approved by the department; and

1822 (ii) current for each three-month period.

1823 (c) ~~Each~~ An expenditure shall be supported by:

- 1824 (i) a delivery [~~tickets~~] ticket;
- 1825 (ii) [~~invoices~~] an invoice;
- 1826 (iii) a receipted [~~bills~~] bill;
- 1827 (iv) a canceled [~~checks~~] check;
- 1828 (v) a petty cash [~~vouchers~~] voucher; or
- 1829 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.
- 1830 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 1831 liquor licensee shall maintain accounting and other records and documents as the department
- 1832 may require.
- 1833 (e) [~~Any~~] A restaurant liquor licensee or person acting for the restaurant, who
- 1834 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of~~
- 1835 ~~the books~~] an entry in a book of account or other [documents] document of the restaurant that
- 1836 is required to be made, maintained, or preserved by this title or the rules of the commission for
- 1837 the purpose of deceiving the commission or the department, or [~~any of their officials or~~
- 1838 ~~employees~~] an official or employee of the commission or department, is subject to:
- 1839 (i) the suspension or revocation of the restaurant's liquor license; and
- 1840 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1841 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 1842 longer than 240 hours, unless:
- 1843 (i) the restaurant liquor licensee notifies the department in writing at least seven days
- 1844 before the [~~closing~~] day on which the restaurant liquor licensee closes or ceases operation; and
- 1845 (ii) the closure or cessation of operation is first approved by the department.
- 1846 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~
- 1847 ~~notice of closure shall be made to~~] the restaurant liquor licensee shall immediately notify the
- 1848 department by telephone.
- 1849 (c) (i) The department may authorize a closure or cessation of operation for a period
- 1850 not to exceed 60 days.
- 1851 (ii) The department may extend the initial period an additional 30 days upon:
- 1852 (A) written request of the restaurant liquor licensee; and [~~upon~~]
- 1853 (B) a showing of good cause.
- 1854 (iii) A closure or cessation of operation may not exceed a total of 90 days without

1855 commission approval.

1856 (d) ~~[Any]~~ A notice shall include:

1857 (i) the dates of closure or cessation of operation;

1858 (ii) the reason for the closure or cessation of operation; and

1859 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1860 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1861 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
1862 automatic forfeiture of:

1863 (i) the license; and

1864 (ii) the unused portion of the license fee for the remainder of the license year effective
1865 immediately.

1866 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1867 approved date ~~[shall result]~~ results in an automatic forfeiture of:

1868 (i) the license; and

1869 (ii) the unused portion of the license fee for the remainder of the license year.

1870 (23) ~~[Each]~~ A restaurant liquor licensee shall maintain at least 70% of its total
1871 restaurant business from the sale of food, which does not include mix for an alcoholic
1872 ~~[beverages]~~ beverage or service charges.

1873 (24) A restaurant liquor license may not be transferred from one location to another,
1874 without prior written approval of the commission.

1875 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1876 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license
1877 to ~~[any other]~~ another person whether for monetary gain or not.

1878 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1879 disposition.

1880 (26) ~~[Each]~~ A server of an alcoholic ~~[beverages]~~ beverage in a restaurant liquor
1881 licensee's establishment shall keep a written beverage tab for each table or group that orders or
1882 consumes an alcoholic ~~[beverages]~~ beverage on the premises. The beverage tab shall list the
1883 type and amount of an alcoholic ~~[beverages]~~ beverage ordered or consumed.

1884 (27) A person's willingness to serve an alcoholic ~~[beverages]~~ beverage may not be
1885 made a condition of employment as a server with a restaurant that has a restaurant liquor

1886 license.

1887 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
1888 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1889 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1890 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1891 58-37-2; or

1892 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1893 Section 58-37a-3.

1894 Section 27. Section **32A-4-206** is amended to read:

1895 **32A-4-206. Operational restrictions.**

1896 [Each] A person granted an airport lounge liquor license and the employees and
1897 management personnel of the airport lounge shall comply with the following conditions and
1898 requirements. Failure to comply may result in a suspension or revocation of the airport lounge
1899 liquor license or other disciplinary action taken against individual employees or management
1900 personnel.

1901 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a
1902 state ~~[stores]~~ store or package ~~[agencies]~~ agency.

1903 (b) Liquor purchased from a state store or package agency may be transported by the
1904 airport lounge liquor licensee from the place of purchase to the licensed premises.

1905 (c) Payment for liquor shall be made in accordance with the rules established by the
1906 commission.

1907 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
1908 only in a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a
1909 calibrated metered dispensing system approved by the department in accordance with
1910 commission rules adopted under this title, except that:

1911 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1912 system if used as a secondary flavoring ingredient in a beverage subject to the following
1913 restrictions:

1914 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1915 a spirituous primary liquor;

1916 (ii) the secondary ingredient ~~[is]~~ may not be the only spirituous liquor in the beverage;

1917 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
1918 stored on the floor plan provided to the department; and

1919 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
1920 "flavorings";

1921 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1922 system if used:

1923 (i) as a flavoring on ~~desserts~~ a dessert; and

1924 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
1925 dessert; [and]

1926 (c) ~~each~~ an airport lounge patron may have no more than ~~[2.75]~~ 2.5 ounces of
1927 spirituous liquor at a time before the patron; and

1928 (d) an airport lounge patron may have no more than two spirituous liquor drinks at a
1929 time before the patron, except that an airport lounge patron may not have two spirituous liquor
1930 drinks before the airport lounge patron if one of the spirituous liquor drinks consists only of the
1931 primary spirituous liquor for the other spirituous liquor drink.

1932 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1933 exceed five ounces per glass or individual portion.

1934 (ii) An individual portion may be served to a patron in more than one glass as long as
1935 the total amount of wine does not exceed five ounces.

1936 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1937 Subsection (7)(c).

1938 (b) (i) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters
1939 at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of four or more persons.

1940 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 750
1941 milliliters at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of less than four
1942 persons.

1943 (c) A wine service may be performed and a service charge assessed by the airport
1944 lounge liquor licensee as authorized by commission rule for wine purchased at the airport
1945 lounge.

1946 (4) (a) Heavy beer may be served in an original ~~containers~~ container not exceeding
1947 one liter at ~~prices~~ a price fixed by the commission.

1948 **(b) A flavored malt beverage may be served in an original container not exceeding one**
1949 **liter at a price fixed by the commission.**

1950 ~~[(b)]~~ **(c) A service charge may be assessed by the airport lounge liquor licensee as**
1951 **authorized by commission rule for heavy beer or a flavored malt beverage purchased at the**
1952 **airport lounge.**

1953 **(5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge ~~[licensed to sell]~~ liquor**
1954 **licensee may sell beer for on-premise consumption:**

1955 **(A) in an open container; and**

1956 **(B) on draft.**

1957 **(ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does**
1958 **not exceed two liters, except that beer may not be sold to an individual patron in a size of**
1959 **container that exceeds one liter.**

1960 **(b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):**

1961 **(i) may do so without obtaining a separate on-premise beer retailer license from the**
1962 **commission; and**

1963 **(ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer**
1964 **Retailer Licenses, that apply to an on-premise beer ~~[retailers]~~ retailer except when those**
1965 **restrictions are inconsistent with or less restrictive than the operational restrictions under this**
1966 **part.**

1967 **(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer**
1968 **Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport**
1969 **lounge's:**

1970 **(i) state liquor license; and**

1971 **(ii) alcoholic beverage license issued by the local authority.**

1972 **(6) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in**
1973 **~~[any]~~ a place other than as designated in the airport lounge liquor licensee's application, unless**
1974 **the airport lounge liquor licensee first applies for and receives approval from the department**
1975 **for a change of location within the airport lounge.**

1976 **(7) (a) A patron may only make ~~[purchases]~~ a purchase in the airport lounge from and**
1977 **be served by a person employed, designated, and trained by the airport lounge liquor licensee to**
1978 **sell, dispense, and serve an alcoholic ~~[beverages]~~ beverage.**

1979 (b) Notwithstanding Subsection (7)(a), a patron who ~~[has purchased]~~ purchases bottled
1980 wine from an employee of the airport lounge may serve wine from the bottle to the patron or
1981 others at the patron's table.

1982 (c) ~~[Each]~~ An airport lounge patron may have no more than two alcoholic beverages of
1983 any kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1984 (8) The liquor storage area shall remain locked at all times other than those hours and
1985 days when liquor sales and service are authorized by law.

1986 (9) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, offered for sale,
1987 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8
1988 a.m.

1989 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
1990 otherwise furnished to ~~[any]~~ a:

1991 (a) minor;

1992 (b) person actually, apparently, or obviously intoxicated;

1993 (c) known habitual drunkard; or

1994 (d) known interdicted person.

1995 (11) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

1996 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

1997 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
1998 of the alcoholic beverage to the airport lounge liquor licensee.

1999 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2000 over consumption or intoxication.

2001 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2002 hours of the airport ~~[lounge's]~~ lounge liquor licensee's business day such as a "happy hour."

2003 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
2004 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2005 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
2006 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

2007 (g) An airport lounge liquor licensee may not engage in a public promotion involving
2008 or offering free an alcoholic ~~[beverages]~~ beverage to the general public.

2009 (12) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of

2010 an airport lounge by:

2011 (a) the airport lounge liquor licensee; or

2012 (b) [~~any~~] an employee or agent of the airport lounge liquor licensee.

2013 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee

2014 [~~any~~] an alcoholic beverage for on-premise consumption.

2015 (b) An airport lounge [~~or its officers, managers, employees, or agents~~] liquor licensee

2016 or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a

2017 person to bring onto the airport lounge premises [~~any~~] an alcoholic beverage for on-premise

2018 consumption or allow consumption of [~~any such~~] the alcoholic beverage on [~~its~~] the airport

2019 lounge liquor licensee's premises.

2020 (14) An airport lounge liquor licensee and [~~its employees~~] an employee of the airport

2021 lounge liquor licensee may not permit a patron to remove [~~any~~] an alcoholic [~~beverages~~]

2022 beverage from the airport lounge premises.

2023 (15) (a) [~~A minor may not be employed by an~~] An airport lounge liquor licensee may

2024 not employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

2025 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be

2026 employed to enter the sale at a cash register or other sales recording device.

2027 (16) An employee of an airport lounge liquor licensee, while on duty, may not:

2028 (a) consume an alcoholic beverage; or

2029 (b) be intoxicated.

2030 (17) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption

2031 of liquor may be stated in a food or alcoholic beverage menu including:

2032 (a) a set-up charge;

2033 (b) a service charge; or

2034 (c) a chilling fee.

2035 (18) [~~Each~~] An airport lounge liquor licensee shall display in a prominent place in the

2036 airport lounge:

2037 (a) the liquor license that is issued by the department;

2038 (b) a list of the types and brand names of liquor being served through its calibrated

2039 metered dispensing system; and

2040 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or

2041 drugs is a serious crime that is prosecuted aggressively in Utah."

2042 (19) (a) ~~[Each]~~ An airport lounge liquor licensee shall maintain an expense ledger or
2043 record showing in detail:

2044 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
2045 other items required by the department; and

2046 (ii) sales made separately for malt or brewed beverages, food, and all other items
2047 required by the department.

2048 ~~[(b) This record shall be kept:]~~

2049 (b) An airport lounge liquor licensee shall keep a record required by Subsection
2050 (19)(a):

2051 (i) in a form approved by the department; and

2052 (ii) current for each three-month period.

2053 (c) ~~[Each]~~ An expenditure shall be supported by:

2054 (i) a delivery ~~[tickets]~~ ticket;

2055 (ii) ~~[invoices]~~ an invoice;

2056 (iii) a receipted ~~[bills]~~ bill;

2057 (iv) a canceled ~~[checks]~~ check;

2058 (v) a petty cash ~~[vouchers]~~ voucher; or

2059 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

2060 (d) In addition to a ledger or record required by Subsection (19)(a), ~~[each]~~ an airport
2061 lounge liquor licensee shall maintain accounting and other records and documents as the
2062 department may require.

2063 (e) ~~[Any]~~ An airport lounge liquor licensee or person acting for the airport lounge, who
2064 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
2065 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the airport lounge
2066 required to be made, maintained, or preserved by this title or the rules of the commission for
2067 the purpose of deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or~~
2068 ~~employees]~~ an official or employee of the commission or department, is subject to:

2069 (i) the immediate suspension or revocation of the airport lounge's liquor license; and

2070 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2071 (20) An airport lounge liquor license may not be transferred from one location to

2072 another, without prior written approval of the commission.

2073 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
2074 barter, give, or attempt in any way to dispose of the airport lounge liquor license to [~~any other~~]
2075 another person, whether for monetary gain or not.

2076 (b) An airport lounge liquor license has no monetary value for the purpose of any type
2077 of disposition.

2078 (22) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in [~~a~~] an airport lounge
2079 liquor licensee's establishment shall keep a written beverage tab for each table or group that
2080 orders or consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall
2081 list the type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.

2082 (23) An airport lounge liquor licensee's premises may not be leased for a private
2083 [~~functions~~] function.

2084 (24) An airport lounge liquor licensee may not on the premises of the airport lounge
2085 liquor licensee:

2086 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2087 Chapter 10, Part 11, Gambling;

2088 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2089 Part 11, Gambling; or

2090 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2091 the risking of something of value for a return or for an outcome when the return or outcome is
2092 based upon an element of chance, excluding the playing of an amusement device that confers
2093 only an immediate and unrecorded right of replay not exchangeable for value.

2094 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor
2095 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,
2096 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2097 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2098 58-37-2; or

2099 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2100 Section 58-37a-3.

2101 Section 28. Section **32A-4-302** is amended to read:

2102 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2103 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2104 and beer on its premises, but not spirituous liquor[;] or, on or after October 1, 2008, a flavored
2105 malt beverage, shall obtain a limited restaurant license from the commission as provided in this
2106 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2107 (2) (a) Subject to the other provisions of this section, the commission may issue limited
2108 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in
2109 numbers the commission considers proper for the storage, sale, and consumption of wine,
2110 heavy beer, and beer on premises operated as public restaurants.

2111 (b) The total number of limited restaurant licenses issued under this part may not at any
2112 time aggregate more than that number determined by dividing the population of the state by
2113 [~~11,000~~] 9,300.

2114 (c) For purposes of this Subsection (2), population shall be determined by:

2115 (i) the most recent United States decennial or special census; or

2116 (ii) [~~any other~~] another population determination made by the United States or state
2117 governments.

2118 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
2119 areas the commission considers necessary.

2120 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2121 months.

2122 (b) (i) A limited restaurant license issued for operation during a summer time period is
2123 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
2124 limited restaurant license shall:

2125 (A) begin on May 1; and

2126 (B) end on October 31.

2127 (ii) A limited restaurant license issued for operation during a winter time period is
2128 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"
2129 limited restaurant license shall:

2130 (A) begin on November 1; and

2131 (B) end on April 30.

2132 (iii) In determining the number of limited restaurant licenses that the commission may
2133 issue under this section:

2134 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant
2135 license; and

2136 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"
2137 limited restaurant license.

2138 (c) If the location, design, and construction of a hotel may require more than one
2139 limited restaurant sales location within the hotel to serve the public convenience, the
2140 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
2141 restaurant locations within the hotel under one license if:

2142 (i) the hotel has a minimum of 150 guest rooms; and

2143 (ii) all locations under the license are:

2144 (A) within the same hotel facility; and

2145 (B) on premises that are:

2146 (I) managed or operated by the licensee; and

2147 (II) owned or leased by the licensee.

2148 (d) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate limited
2149 restaurant license for each restaurant where wine, heavy beer, and beer are sold.

2150 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b), (c), or (d), the premises of a
2151 limited restaurant license may not be established:

2152 (i) within 600 feet of [any public or private school, church, public library, public
2153 playground, or park] a community location, as measured by the method in Subsection [(5):]

2154 (4)(e); or

2155 ~~[(b) The premises of a limited restaurant license may not be established]~~

2156 (ii) within 200 feet of [any public or private school, church, public library, public
2157 playground, or park] a community location, measured in a straight line from the nearest

2158 entrance of the proposed outlet to the nearest property boundary of the [public or private
2159 school, church, public library, public playground, or park] community location.

2160 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
2161 ~~following exemptions applies:]~~

2162 ~~[(i) with] (b) With~~ respect to the establishment of a limited restaurant license ~~[in any~~
2163 ~~location], the commission may authorize a variance to reduce the proximity [requirements]~~

2164 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

2165 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the
2166 variance;

2167 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a limited
2168 restaurant license in the community are limited;

2169 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
2170 practical in the neighborhood concerned; ~~[and]~~

2171 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
2172 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2173 establishing the license would not be detrimental to the public health, peace, safety, and
2174 welfare of the community; ~~[or]~~ and

2175 (v) (A) the community location governing authority gives its written consent to the
2176 variance; or

2177 (B) when written consent is not given by the community location governing authority,
2178 the commission finds that the applicant has established that:

2179 (I) there is substantial unmet public demand to consume alcohol in a public setting
2180 within the geographic boundary of the local authority in which the limited restaurant licensee is
2181 to be located;

2182 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2183 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited
2184 restaurant license; and

2185 (III) there is no reasonably viable alternative location within the geographic boundary
2186 of the local authority in which the limited restaurant licensee is to be located for establishing a
2187 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2188 (c) With respect to the establishment of a limited restaurant license, the commission
2189 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

2190 (i) the community location at issue is:

2191 (A) a public library; or

2192 (B) a public park;

2193 (ii) the local authority grants its written consent to the variance;

2194 (iii) the commission finds that alternative locations for establishing a limited restaurant
2195 license in the community are limited;

2196 (iv) a public hearing is held in the city, town, or county, and where practical in the
2197 neighborhood concerned;

2198 (v) after giving full consideration to all of the attending circumstances and the policies
2199 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2200 limited restaurant license would not be detrimental to the public health, peace, safety, and
2201 welfare of the community; and

2202 (vi) (A) the community location governing authority gives its written consent to the
2203 variance; or

2204 (B) when written consent is not given by the community location governing authority,
2205 the commission finds that the applicant has established that:

2206 (I) there is substantial unmet public demand to consume alcohol in a public setting
2207 within the geographic boundary of the local authority in which the limited restaurant licensee is
2208 to be located;

2209 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2210 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a limited
2211 restaurant license; and

2212 (III) there is no reasonably viable alternative location within the geographic boundary
2213 of the local authority in which the limited restaurant licensee is to be located for establishing a
2214 limited restaurant license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

2215 ~~[(ii) with]~~ (d) ~~With~~ respect to the premises of ~~[any]~~ a limited restaurant license issued
2216 by the commission that undergoes a change of ownership, the commission may waive or vary
2217 the proximity requirements of ~~[Subsections]~~ Subsection (4)(a) ~~[and (b)]~~ in considering whether
2218 to grant a limited restaurant license to the new owner of the premises if:

2219 (i) (A) the premises previously received a variance reducing the proximity
2220 [requirements] requirement of Subsection (4)(a)(i) [or (b)]; or

2221 (B) the premises received a variance reducing the proximity requirement of Subsection
2222 (4)(a)(ii) on or before May 4, 2008; or

2223 ~~[(B)]~~ (ii) a variance from proximity [or distance requirement] requirements was
2224 otherwise allowed under this title.

2225 ~~[(5) With respect to any public or private school, church, public library, public~~
2226 ~~playground, or park, the]~~

2227 (e) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from the
 2228 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
 2229 property boundary of the [~~public or private school, church, public library, public playground,~~
 2230 ~~school playground, or park~~] community location.

2231 [(6)] (5) (a) Nothing in this section prevents the commission from considering the
 2232 proximity of any educational, religious, and recreational facility, or any other relevant factor in
 2233 reaching a decision on a proposed location.

2234 (b) For purposes of this Subsection [(6)] (5), "educational facility" includes:

- 2235 (i) a nursery school;
- 2236 (ii) an infant day care center; and
- 2237 (iii) a trade and technical school.

2238 Section 29. Section **32A-4-303** is amended to read:

2239 **32A-4-303. Application and renewal requirements.**

2240 (1) A person seeking a limited restaurant license under this part shall file a written
 2241 application with the department, in a form prescribed by the department. The application shall
 2242 be accompanied by:

- 2243 (a) a nonrefundable \$250 application fee;
- 2244 (b) an initial license fee of \$500, which is refundable if a license is not granted;
- 2245 (c) written consent of the local authority;
- 2246 (d) a copy of the applicant's current business license;
- 2247 (e) evidence of proximity to any [~~public or private school, church, public library,~~
 2248 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
 2249 ~~Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those~~
 2250 ~~subsections~~] community location, with proximity requirements being governed by Section
 2251 32A-4-302;

2252 (f) a bond as specified by Section 32A-4-306;

2253 (g) a floor plan of the restaurant, including:

- 2254 (i) consumption areas; and
- 2255 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
 2256 beer;

2257 (h) evidence that the restaurant is carrying public liability insurance in an amount and

2258 form satisfactory to the department;

2259 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
2260 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2261 (j) a signed consent form stating that the restaurant will permit any authorized
2262 representative of the commission, department, or any law enforcement officer unrestricted right
2263 to enter the restaurant;

2264 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2265 company, proper verification evidencing that the person or persons signing the restaurant
2266 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2267 company; and

2268 (l) any other information the commission or department may require.

2269 (2) (a) All limited restaurant licenses expire on October 31 of each year.

2270 (b) A person desiring to renew that person's limited restaurant license shall submit:

2271 (i) a renewal fee of \$300; and

2272 (ii) a renewal application to the department no later than September 30.

2273 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2274 the license effective on the date the existing license expires.

2275 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by
2276 the department.

2277 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
2278 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2279 immediately notify the department of any change in:

2280 (a) ownership of the restaurant;

2281 (b) for a corporate owner, the:

2282 (i) corporate officer or directors; or

2283 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2284 corporation; or

2285 (c) for a limited liability company:

2286 (i) managers; or

2287 (ii) members owning at least 20% of the limited liability company.

2288 Section 30. Section **32A-4-305** is amended to read:

2289 **32A-4-305. Commission and department duties before granting licenses.**

2290 (1) (a) Before a limited restaurant license may be granted by the commission, the
2291 department shall conduct an investigation and may hold public hearings for the purpose of
2292 gathering information and making recommendations to the commission as to whether or not a
2293 license should be granted.

2294 (b) The department shall forward the information and recommendations described in
2295 Subsection (1)(a) to the commission to aid in the commission's determination.

2296 (2) Before issuing ~~[any]~~ a limited restaurant license, the commission shall:

2297 (a) determine that the applicant has complied with all basic qualifications and
2298 requirements for making application for a license as provided by Sections 32A-4-302 and
2299 32A-4-303;

2300 (b) determine that the application is complete;

2301 (c) consider the locality within which the proposed limited restaurant outlet is located,
2302 including:

2303 (i) physical characteristics such as:

2304 (A) the condition of the premises;

2305 (B) square footage; and

2306 (C) parking availability; and

2307 (ii) operational factors such as:

2308 (A) tourist traffic;

2309 (B) proximity to and density of other state stores, package agencies, and outlets;

2310 (C) demographics;

2311 (D) population to be served; and

2312 (E) the extent of and proximity to any ~~[school, church, public library, public~~
2313 ~~playground, or park]~~ community location;

2314 (d) consider the applicant's ability to manage and operate a limited restaurant license,
2315 including:

2316 (i) management experience;

2317 (ii) past retail liquor experience; and

2318 (iii) the type of management scheme employed by the restaurant;

2319 (e) consider the nature or type of restaurant operation, including:

- 2320 (i) the type of menu items offered and emphasized;
- 2321 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;
- 2322 (iii) the hours of operation;
- 2323 (iv) the seating capacity of the facility; and
- 2324 (v) the gross sales of food items; and
- 2325 (f) consider any other factors or circumstances the commission considers necessary.

2326 Section 31. Section ~~32A-4-307~~ is amended to read:

2327 **32A-4-307. Operational restrictions.**

2328 [Each] A person granted a limited restaurant license and the employees and
2329 management personnel of the limited restaurant shall comply with the following conditions and
2330 requirements. Failure to comply may result in a suspension or revocation of the license or
2331 other disciplinary action taken against individual employees or management personnel.

2332 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2333 except from a state [~~stores~~] store or package [~~agencies~~] agency.

2334 (b) Wine and heavy beer purchased [~~in accordance with Subsection (1)(a)]~~ from a state
2335 store or package agency may be transported by the limited restaurant licensee from the place of
2336 purchase to the licensed premises.

2337 (c) Payment for wine and heavy beer shall be made in accordance with rules
2338 established by the commission.

2339 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
2340 [~~spirituous liquor~~] the products listed in Subsection (2)(c) on the premises of the limited
2341 restaurant.

2342 (b) [~~Spirituous liquor~~] A product listed in Subsection (2)(c) may not be on the premises
2343 of the limited restaurant except for use:

2344 (i) as a flavoring on [~~desserts~~] a dessert; and

2345 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
2346 dessert.

2347 (c) This Subsection (2) applies to:

2348 (i) spirituous liquor; and

2349 (ii) on or after October 1, 2008, a flavored malt beverage.

2350 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to

2351 exceed five ounces per glass or individual portion.

2352 (ii) An individual portion may be served to a patron in more than one glass as long as
2353 the total amount of wine does not exceed five ounces.

2354 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2355 Subsection (7)(e).

2356 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
2357 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

2358 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
2359 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
2360 persons.

2361 (c) A wine service may be performed and a service charge assessed by the limited
2362 restaurant licensee as authorized by commission rule for wine purchased at the limited
2363 restaurant.

2364 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
2365 one liter at [~~prices~~] a price fixed by the commission.

2366 (b) A service charge may be assessed by the limited restaurant licensee as authorized
2367 by commission rule for heavy beer purchased at the limited restaurant.

2368 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
2369 on-premise consumption:

2370 (A) in an open container; and

2371 (B) on draft.

2372 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
2373 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2374 container that exceeds one liter.

2375 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2376 (i) may do so without obtaining a separate on-premise beer retailer license from the
2377 commission; and

2378 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2379 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
2380 restrictions are inconsistent with or less restrictive than the operational restrictions under this
2381 part.

2382 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2383 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
2384 restaurant's:

- 2385 (i) limited restaurant license; and
- 2386 (ii) alcoholic beverage license issued by the local authority.

2387 (6) Wine, heavy beer, and beer may not be stored, served, or sold in [~~any~~] a place other
2388 than as designated in the limited restaurant licensee's application, unless the limited restaurant
2389 licensee first applies for and receives approval from the department for a change of location
2390 within the limited restaurant.

2391 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in [~~the~~]
2392 a limited restaurant from and be served by a person employed, designated, and trained by the
2393 limited restaurant licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2394 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
2395 bottled wine from an employee of the limited restaurant [~~or has carried~~] licensee or carries
2396 bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may
2397 thereafter serve wine from the bottle to the patron or others at the patron's table.

2398 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
2399 patron.

2400 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

2401 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
2402 a patron at a bar.

2403 (e) [~~Each~~] A limited restaurant patron may have no more than two alcoholic beverages
2404 of any kind at a time before the patron.

2405 (8) The alcoholic beverage storage area shall remain locked at all times other than
2406 those hours and days when alcoholic beverage sales are authorized by law.

2407 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2408 furnished at a limited restaurant during the following days or hours:

- 2409 (i) until after the polls are closed on the day of [~~any~~] a:
 - 2410 (A) regular general election;
 - 2411 (B) regular primary election; or
 - 2412 (C) statewide special election;

2413 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
2414 service district, or school election, but only:

2415 (A) within the boundaries of the municipality, local district, special service district, or
2416 school district; and

2417 (B) if required by local ordinance; and

2418 (iii) on any other day after 12 midnight and before 12 noon.

2419 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2420 Licenses, for on-premise beer licensees.

2421 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
2422 connection with an order of food prepared, sold, and served at the limited restaurant.

2423 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to
2424 ~~[any]~~ a:

2425 (a) minor;

2426 (b) person actually, apparently, or obviously intoxicated;

2427 (c) known habitual drunkard; or

2428 (d) known interdicted person.

2429 (12) (a) (i) Wine and heavy beer may be sold only at ~~[prices]~~ a price fixed by the
2430 commission.

2431 (ii) Wine and heavy beer may not be sold at a discount ~~[prices]~~ price on any date or at
2432 any time.

2433 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
2434 of the alcoholic ~~[beverages]~~ beverage to the limited restaurant licensee.

2435 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2436 over consumption or intoxication.

2437 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2438 hours of the limited ~~[restaurant's]~~ restaurant licensee's business day such as a "happy hour."

2439 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
2440 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2441 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
2442 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

2443 (g) A limited restaurant licensee may not engage in a public promotion involving or

2444 offering free alcoholic beverages to the general public.

2445 (13) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
2446 the limited restaurant by:

2447 (a) the limited restaurant licensee; or

2448 (b) [~~any~~] an employee or agent of the limited restaurant licensee.

2449 (14) (a) A person may not bring onto the premises of a limited restaurant licensee [~~any~~]
2450 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2451 discretion of the limited restaurant licensee, bottled wine onto the premises of [~~any~~] a limited
2452 restaurant licensee for on-premise consumption.

2453 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee [~~or its~~
2454 ~~officers, managers, employees, or agents~~] or an officer, manager, employee, or agent of a
2455 limited restaurant licensee may not allow:

2456 (i) a person to bring onto the limited restaurant premises [~~any~~] an alcoholic beverage
2457 for on-premise consumption; or

2458 (ii) consumption of [~~any~~] an alcoholic beverage described in Subsection (14)(b)(i) on
2459 [~~its~~] the limited restaurant licensee's premises.

2460 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2461 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2462 (d) A wine service may be performed and a service charge assessed by the limited
2463 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2464 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee [~~and its~~
2465 ~~employees~~] and an employee of the limited restaurant licensee may not permit a restaurant
2466 patron to carry from the limited restaurant premises an open container that:

2467 (i) is used primarily for drinking purposes; and

2468 (ii) contains [~~any~~] an alcoholic beverage.

2469 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2470 contents of a bottle of wine if before removal, the bottle [~~has been~~] is recorked or recapped.

2471 (16) (a) A [~~minor may not be employed by a~~] limited restaurant licensee may not
2472 employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

2473 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2474 employed to enter the sale at a cash register or other sales recording device.

- 2475 (17) An employee of a limited restaurant licensee, while on duty, may not:
- 2476 (a) consume an alcoholic beverage; or
- 2477 (b) be intoxicated.
- 2478 (18) A charge or fee made in connection with the sale, service, or consumption of wine
- 2479 or heavy beer may be stated in food or alcoholic beverage menus including:
- 2480 (a) a service charge; or
- 2481 (b) a chilling fee.
- 2482 (19) ~~Each~~ A limited restaurant licensee shall display in a prominent place in the
- 2483 restaurant:
- 2484 (a) the limited restaurant license that is issued by the department; and
- 2485 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 2486 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2487 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 2488 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 2489 Chapter 10, Part 11, Gambling;
- 2490 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 2491 Part 11, Gambling; or
- 2492 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 2493 the risking of something of value for a return or for an outcome when the return or outcome is
- 2494 based upon an element of chance, excluding the playing of an amusement device that confers
- 2495 only an immediate and unrecorded right of replay not exchangeable for value.
- 2496 (21) (a) ~~Each~~ A limited restaurant licensee shall maintain an expense ledger or record
- 2497 showing in detail:
- 2498 (i) quarterly expenditures made separately for:
- 2499 (A) wine;
- 2500 (B) heavy beer;
- 2501 (C) beer;
- 2502 (D) food; and
- 2503 (E) all other items required by the department; and
- 2504 (ii) sales made separately for:
- 2505 (A) wine;

- 2506 (B) heavy beer;
- 2507 (C) beer;
- 2508 (D) food; and
- 2509 (E) all other items required by the department.
- 2510 (b) ~~[The]~~ A limited restaurant licensee shall keep a record required by Subsection
- 2511 (21)(a) ~~[shall be kept]~~:
- 2512 (i) in a form approved by the department; and
- 2513 (ii) current for each three-month period.
- 2514 (c) ~~[Each]~~ An expenditure shall be supported by:
- 2515 (i) a delivery ~~[tickets]~~ ticket;
- 2516 (ii) ~~[invoices]~~ an invoice;
- 2517 (iii) a receipted ~~[bills]~~ bill;
- 2518 (iv) a canceled ~~[checks]~~ check;
- 2519 (v) a petty cash ~~[vouchers]~~ voucher; or
- 2520 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 2521 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2522 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2523 the department may require.
- 2524 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2525 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~
- 2526 an entry in a book of account or other ~~[documents]~~ document of the limited restaurant that is
- 2527 required to be made, maintained, or preserved by this title or the rules of the commission for
- 2528 the purpose of deceiving the commission ~~[or], the department, or [any of their officials or~~
- 2529 ~~employees]~~ an official or employee of the commission or department, is subject to:
- 2530 (i) the suspension or revocation of the limited restaurant's license; and
- 2531 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2532 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 2533 longer than 240 hours, unless:
- 2534 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 2535 before the ~~[closing]~~ day on which the limited restaurant licensee closes or ceases operation; and
- 2536 (ii) the closure or cessation of operation is first approved by the department.

2537 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~
2538 ~~notice of closure shall be made to~~] the limited restaurant licensee shall immediately notify the
2539 department by telephone.

2540 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
2541 cessation of operation for a period not to exceed 60 days.

2542 (ii) The department may extend the initial period an additional 30 days upon:

2543 (A) written request of the limited restaurant licensee; and

2544 (B) a showing of good cause.

2545 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2546 commission approval.

2547 (d) [~~Any~~] A notice required by Subsection (22)(a) shall include:

2548 (i) the dates of closure or cessation of operation;

2549 (ii) the reason for the closure or cessation of operation; and

2550 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

2551 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
2552 authorization before closure or cessation of operation [~~shall result~~] results in an automatic
2553 forfeiture of:

2554 (i) the limited restaurant license; and

2555 (ii) the unused portion of the license fee for the remainder of the license year effective
2556 immediately.

2557 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
2558 approved date [~~shall result~~] results in an automatic forfeiture of:

2559 (i) the limited restaurant license; and

2560 (ii) the unused portion of the license fee for the remainder of the license year.

2561 (23) [~~Each~~] A limited restaurant licensee shall maintain at least 70% of its total
2562 restaurant business from the sale of food, which does not include service charges.

2563 (24) A limited restaurant license may not be transferred from one location to another,
2564 without prior written approval of the commission.

2565 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
2566 give, or attempt in any way to dispose of the limited restaurant license to [~~any other~~] another
2567 person whether for monetary gain or not.

2568 (b) A limited restaurant license has no monetary value for the purpose of any type of
2569 disposition.

2570 (26) (a) ~~[Each]~~ A server of wine, heavy beer, and beer in a limited restaurant licensee's
2571 establishment shall keep a written beverage tab for each table or group that orders or consumes
2572 an alcoholic ~~[beverages]~~ beverage on the premises.

2573 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
2574 alcoholic ~~[beverages]~~ beverage ordered or consumed.

2575 (27) A limited restaurant licensee may not make a person's willingness to serve an
2576 alcoholic ~~[beverages]~~ beverage a condition of employment as a server with the limited
2577 restaurant.

2578 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
2579 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
2580 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2581 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2582 58-37-2; or

2583 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2584 Section 58-37a-3.

2585 Section 32. Section **32A-4-401** is amended to read:

2586 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2587 (1) (a) For purposes of this part:

2588 (i) "Banquet" means an event:

2589 (A) for which there is a contract:

2590 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2591 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide

2592 alcoholic beverages at the event;

2593 (B) held at one or more designated locations approved by the commission in or on the
2594 premises of a:

2595 (I) hotel;

2596 (II) resort facility;

2597 (III) sports center; or

2598 (IV) convention center; and

- 2599 (C) at which food and alcoholic beverages may be sold and served.
- 2600 (ii) "Convention center" is as defined by the commission by rule.
- 2601 (iii) "Hotel" is as defined by the commission by rule.
- 2602 (iv) "Resort facility" is as defined by the commission by rule.
- 2603 (v) "Room service" means service of alcoholic beverages to a guest room of a:
- 2604 (A) hotel; or
- 2605 (B) resort facility.
- 2606 (vi) "Sports center" is as defined by the commission by rule.
- 2607 (b) The commission may issue an on-premise banquet license to any of the following
- 2608 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic
- 2609 beverages in connection with that person's banquet and room service activities:
- 2610 (i) hotel;
- 2611 (ii) resort facility;
- 2612 (iii) sports center; or
- 2613 (iv) convention center.
- 2614 (c) This chapter is not intended to prohibit alcoholic beverages on the premises of a
- 2615 person listed in Subsection (1) to the extent otherwise permitted by this title.
- 2616 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 2617 at any time aggregate more than that number determined by dividing the population of the state
- 2618 by 30,000.
- 2619 (b) For purposes of this Subsection (2), the population of the state shall be determined
- 2620 by:
- 2621 (i) the most recent United States decennial or special census; or
- 2622 (ii) ~~any other~~ another population determination made by the United States or state
- 2623 governments.
- 2624 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
- 2625 licensee:
- 2626 (a) the host of a contracted banquet may request an on-premise banquet licensee to
- 2627 provide alcoholic beverages served at a banquet; and
- 2628 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
- 2629 banquet.

2630 (4) At a banquet, an on-premise banquet licensee may provide:

2631 (a) a hosted bar; or

2632 (b) a cash bar.

2633 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
2634 applicant from applying for a package agency.

2635 (6) (a) ~~[The]~~ Except as provided in Subsection (6)(b), (c), or (d), the premises of an
2636 on-premise banquet license may not be established:

2637 (i) within 600 feet of [any public or private school, church, public library, public
2638 playground, or park] a community location, as measured by the method in Subsection
2639 (6)~~(d)~~(e); or

2640 ~~[(b) The premises of an on-premise banquet license may not be established]~~

2641 (ii) within 200 feet of [any public or private school, church, public library, public
2642 playground, or park] a community location, measured in a straight line from the nearest
2643 entrance of the proposed outlet to the nearest property boundary of the [public or private
2644 school, church, public library, public playground, or park] community location.

2645 ~~[(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the~~
2646 ~~following exemptions applies:]~~

2647 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise banquet license
2648 ~~[within any location], the commission may authorize a variance to reduce the proximity~~
2649 ~~[requirements] requirement~~ of Subsection (6)(a)(i) ~~[or (b)]~~ if:

2650 ~~[(A)]~~ (i) the local authority grants its written consent to the variance;

2651 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing an on-premise
2652 banquet license in the community are limited;

2653 ~~[(C)]~~ (iii) the variance is authorized after a public hearing is held in the city, town, or
2654 county, and where practical in the neighborhood concerned; ~~[and]~~

2655 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
2656 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2657 establishing the license would not be detrimental to the public health, peace, safety, and
2658 welfare of the community; ~~[or]~~ and

2659 (v) (A) the community location governing authority gives its written consent to the
2660 variance; or

2661 (B) when written consent is not given by the community location governing authority,
2662 the commission finds that the applicant has established that:

2663 (I) there is substantial unmet public demand to consume alcohol in a public setting
2664 within the geographic boundary of the local authority in which the on-premise banquet license
2665 premises is to be located;

2666 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2667 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise
2668 banquet license; and

2669 (III) there is no reasonably viable alternative location within the geographic boundary
2670 of the local authority in which the on-premise banquet license premises is to be located for
2671 establishing an on-premise banquet license to satisfy the unmet demand described in
2672 Subsection (6)(b)(v)(B)(I).

2673 (c) With respect to the establishment of an on-premise banquet license, the commission
2674 may authorize a variance that reduces the proximity requirement of Subsection (6)(a)(ii) if:

2675 (i) the community location at issue is:

2676 (A) a public library; or

2677 (B) a public park;

2678 (ii) the local authority grants its written consent to the variance;

2679 (iii) the commission finds that alternative locations for establishing an on-premise
2680 banquet license in the community are limited;

2681 (iv) a public hearing is held in the city, town, or county, and where practical in the
2682 neighborhood concerned;

2683 (v) after giving full consideration to all of the attending circumstances and the policies
2684 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2685 on-premise banquet license would not be detrimental to the public health, peace, safety, and
2686 welfare of the community; and

2687 (vi) (A) the community location governing authority gives its written consent to the
2688 variance; or

2689 (B) when written consent is not given by the community location governing authority,
2690 the commission finds that the applicant has established that:

2691 (I) there is substantial unmet public demand to consume alcohol in a public setting

2692 within the geographic boundary of the local authority in which the on-premise banquet license
2693 premises is to be located;

2694 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2695 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise
2696 banquet license; and

2697 (III) there is no reasonably viable alternative location within the geographic boundary
2698 of the local authority in which the on-premise banquet license premises is to be located for
2699 establishing an on-premise banquet license to satisfy the unmet demand described in
2700 Subsection (6)(c)(vi)(B)(I).

2701 ~~[(ii) with]~~ (d) With respect to the premises of any on-premise banquet license issued
2702 by the commission that undergoes a change of ownership, the commission may waive or vary
2703 the proximity requirements of ~~[Subsections]~~ Subsection (6)(a) ~~[and (b)]~~ in considering whether
2704 to grant an on-premise banquet license to the new owner of the premises if:

2705 (i) (A) the premises previously received a variance reducing the proximity
2706 ~~[requirements]~~ requirement of Subsection (6)(a)(i) ~~[or (b)]~~; or

2707 (B) the premises received a variance reducing the proximity requirement of Subsection
2708 (6)(a)(ii) on or before May 4, 2008; or

2709 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
2710 under this title.

2711 ~~[(d)]~~ (e) ~~[With respect to any public or private school, church, public library, public~~
2712 ~~playground, or park, the]~~ The 600 foot limitation described in Subsection (6)(a)(i) is measured
2713 from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian
2714 travel to the property boundary of the ~~[public or private school, church, public library, public~~
2715 ~~playground, school playground, or park]~~ community location.

2716 (7) (a) Nothing in this section prevents the commission from considering the proximity
2717 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
2718 decision on a proposed location.

2719 (b) For purposes of this Subsection (7), "educational facility" includes:

2720 (i) a nursery school;

2721 (ii) an infant day care center; and

2722 (iii) a trade and technical school.

2723 Section 33. Section ~~32A-4-402~~ is amended to read:

2724 **32A-4-402. Application and renewal requirements.**

2725 (1) (a) A person seeking an on-premise banquet license under this part shall file a
2726 written application with the department, in a form prescribed by the department. The
2727 application shall be accompanied by:

2728 (i) a nonrefundable \$250 application fee;

2729 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2730 (iii) written consent of the local authority;

2731 (iv) a copy of the applicant's current business license;

2732 (v) evidence of proximity to any [~~public or private school, church, public library,
2733 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
2734 Subsection ~~32A-4-401(6)~~, the application shall be processed in accordance with those
2735 subsections] community location, with proximity requirements being governed by Section
2736 32A-4-401;~~

2737 (vi) a bond as specified by Section 32A-4-405;

2738 (vii) a description or floor plan and boundary map of the premises, where appropriate,
2739 of the on-premise banquet license applicant's location, designating:

2740 (A) the location at which the on-premise banquet license applicant proposes that
2741 alcoholic beverages be stored; and

2742 (B) the designated locations on the premises of the applicant from which the
2743 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
2744 consumed;

2745 (viii) evidence that the on-premise banquet license applicant is carrying public liability
2746 insurance in an amount and form satisfactory to the department;

2747 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
2748 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

2749 (x) a signed consent form stating that the on-premise banquet license applicant will
2750 permit any authorized representative of the commission, department, or any law enforcement
2751 officer unrestricted right to enter the on-premise banquet premises;

2752 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
2753 company, proper verification evidencing that the person or persons signing the on-premise

2754 banquet license application are authorized to so act on behalf of the partnership, corporation, or
2755 limited liability company; and

2756 (xii) any other information the commission or department may require.

2757 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
2758 and (vi) if the applicant is:

2759 (i) a state agency; or

2760 (ii) a political subdivision of the state including:

2761 (A) a county; or

2762 (B) a municipality.

2763 (2) Additional locations in or on the premises of an on-premise banquet license

2764 applicant's business from which the on-premise banquet license applicant may propose that

2765 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's

2766 original application may be approved by the department upon proper application, in accordance

2767 with guidelines approved by the commission.

2768 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2769 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that
2770 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed
2771 renewal application to the department no later than September 30.

2772 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2773 (A) a state agency; or

2774 (B) a political subdivision of the state including:

2775 (I) a county; or

2776 (II) a municipality.

2777 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2778 the license effective on the date the existing license expires.

2779 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by
2780 the department.

2781 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may
2782 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
2783 immediately notify the department of any change in:

2784 (a) ownership of the licensee;

- 2785 (b) for a corporate owner, the:
- 2786 (i) corporate officers or directors; or
- 2787 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 2788 corporation; or
- 2789 (c) for a limited liability company:
- 2790 (i) managers; or
- 2791 (ii) members owning at least 20% of the limited liability company.

2792 Section 34. Section ~~32A-4-406~~ is amended to read:

2793 **32A-4-406. Operational restrictions.**

2794 ~~[Each]~~ A person granted an on-premise banquet license and the employees and
2795 management personnel of the on-premise banquet licensee shall comply with this title, the rules
2796 of the commission, and the following conditions and requirements. Failure to comply may
2797 result in a suspension or revocation of the on-premise banquet license or other disciplinary
2798 action taken against individual employees or management personnel.

2799 (1) A person involved in the sale or service of an alcoholic ~~[beverages]~~ beverage under
2800 the on-premise banquet license shall:

- 2801 (a) be under the supervision and direction of the on-premise banquet licensee; and
- 2802 (b) complete the seminar provided for in Section 62A-15-401.

2803 (2) (a) Liquor may not be purchased by ~~[the]~~ an on-premise banquet licensee except
2804 from a state ~~[stores]~~ store or package ~~[agencies]~~ agency.

2805 (b) Liquor purchased ~~[in accordance with Subsection (2)(a)]~~ from a state store or
2806 package agency may be transported by the on-premise banquet licensee from the place of
2807 purchase to the licensed premises.

2808 (c) Payment for liquor shall be made in accordance with rules established by the
2809 commission.

2810 (3) ~~[Alcoholic beverages]~~ An alcoholic beverage may be sold or provided at a banquet
2811 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

2812 (a) An on-premise banquet licensee may sell or provide ~~[any]~~ a primary spirituous
2813 liquor only in a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through
2814 a calibrated metered dispensing system approved by the department in accordance with
2815 commission rules adopted under this title, except that:

2816 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
2817 system if used as a secondary flavoring ingredient in a beverage subject to the following
2818 restrictions:

2819 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
2820 of a primary spirituous liquor;

2821 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

2822 (C) the on-premise banquet licensee shall designate a location where flavorings are
2823 stored on the floor plan provided to the department; and

2824 (D) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
2825 "flavorings";

2826 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
2827 system if used:

2828 (A) as a flavoring on ~~desserts~~ a dessert; and

2829 (B) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
2830 dessert;

2831 (iii) ~~each~~ an attendee may have no more than ~~[2.75]~~ 2.5 ounces of spirituous liquor at
2832 a time before the attendee; and

2833 (iv) ~~each~~ an attendee may have no more than one spirituous liquor drink at a time
2834 before the attendee.

2835 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
2836 exceed five ounces per glass or individual portion.

2837 (B) An individual portion may be served to an attendee in more than one glass as long
2838 as the total amount of wine does not exceed five ounces.

2839 (C) An individual portion of wine is considered to be one alcoholic beverage under
2840 Subsection (5)(c).

2841 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters at
2842 ~~prices~~ a price fixed by the commission.

2843 (iii) A wine service may be performed and a service charge assessed by the on-premise
2844 banquet licensee as authorized by commission rule for wine purchased on the banquet
2845 premises.

2846 (c) (i) Heavy beer may be served in an original ~~containers~~ container not exceeding

2847 one liter at [~~prices~~] a price fixed by the commission.

2848 (ii) A flavored malt beverage may be served in an original container not exceeding one
2849 liter at a price fixed by the commission.

2850 [~~(ii)~~] (iii) A service charge may be assessed by the on-premise banquet licensee as
2851 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the
2852 banquet premises.

2853 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
2854 on-premise consumption:

2855 (A) in an open container; and

2856 (B) on draft.

2857 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
2858 not exceed two liters, except that beer may not be sold to an individual attendee in a container
2859 size that exceeds one liter.

2860 (4) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
2861 any place other than as designated in the on-premise banquet licensee's application, except that
2862 additional locations in or on the premises of an on-premise banquet licensee may be approved
2863 in accordance with guidelines approved by the commission as provided in Subsection
2864 32A-4-402(2).

2865 (5) (a) An attendee may only make an alcoholic beverage [~~purchases~~] purchase from
2866 and be served by a person employed, designated, and trained by the on-premise banquet
2867 licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2868 (b) Notwithstanding Subsection (5)(a), an attendee who [~~has purchased~~] purchases
2869 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine
2870 from the bottle to the attendee or others at the attendee's table.

2871 (c) [~~Each~~] An attendee may have no more than two alcoholic beverages of any kind at a
2872 time before the attendee, subject to the limitation of Subsection (3)(a)(iv).

2873 (6) The alcoholic beverage storage area shall remain locked at all times other than
2874 those hours and days when alcoholic beverage sales are authorized by law.

2875 (7) (a) Except as provided in Subsection (7)(b), an alcoholic [~~beverages~~] beverage may
2876 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee
2877 from 10 a.m. to 1 a.m. seven days a week:

- 2878 (i) at a banquet; or
- 2879 (ii) in connection with room service.
- 2880 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a
- 2881 banquet or in connection with room service until after the polls are closed on the day of:
- 2882 (i) a regular general election;
- 2883 (ii) a regular primary election; or
- 2884 (iii) a statewide special election.
- 2885 (8) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
- 2886 furnished to [~~any~~] a:
- 2887 (a) minor;
- 2888 (b) person actually, apparently, or obviously intoxicated;
- 2889 (c) known habitual drunkard; or
- 2890 (d) known interdicted person.
- 2891 (9) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 2892 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 2893 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 2894 of the alcoholic beverage to the on-premise banquet licensee.
- 2895 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 2896 over consumption or intoxication.
- 2897 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 2898 hours of the on-premise banquet licensee's business day such as a "happy hour."
- 2899 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 2900 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 2901 (f) An on-premise banquet licensee may not engage in a public promotion involving or
- 2902 offering free alcoholic beverages to the general public.
- 2903 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for an
- 2904 attendee by:
- 2905 (a) the on-premise banquet licensee; or
- 2906 (b) [~~any~~] an employee or agent of the on-premise banquet licensee.
- 2907 (11) An attendee of a banquet may not bring [~~any~~] an alcoholic beverage into or onto,
- 2908 or remove [~~any~~] an alcoholic beverage from the premises of a banquet.

2909 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic
2910 ~~[beverages]~~ beverage by an on-premise banquet licensee at a banquet shall be made only for
2911 consumption at the location of the banquet.

2912 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the
2913 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet
2914 licensee, may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

2915 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
2916 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

2917 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic
2918 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

2919 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~
2920 an employee of the on-premise banquet licensee, shall:

2921 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not
2922 saleable, under conditions established by the department; and

2923 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2924 (A) opened and unused alcoholic beverage that is saleable; and

2925 (B) unopened ~~[containers]~~ container of an alcoholic ~~[beverages]~~ beverage.

2926 (15) Except as provided in Subsection (14), ~~[any]~~ an open or sealed container of an
2927 alcoholic ~~[beverages]~~ beverage not sold or consumed at a banquet:

2928 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet
2929 licensee's approved locked storage area; and

2930 (b) may be used at more than one banquet.

2931 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
2932 or otherwise furnish an alcoholic ~~[beverages]~~ beverage in connection with the on-premise
2933 banquet licensee's banquet and room service activities.

2934 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2935 (a) consume an alcoholic beverage; or

2936 (b) be intoxicated.

2937 (18) An on-premise banquet licensee shall prominently display at ~~[each]~~ a banquet at
2938 which an alcoholic ~~[beverages are]~~ beverage is sold or served:

2939 (a) a copy of the licensee's on-premise banquet license; and

2940 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2941 drugs is a serious crime that is prosecuted aggressively in Utah."

2942 (19) An on-premise banquet licensee may not on the premises of the hotel, resort
2943 facility, sports center, or convention center:

2944 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2945 Chapter 10, Part 11, Gambling;

2946 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2947 Part 11, Gambling; or

2948 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2949 the risking of something of value for a return or for an outcome when the return or outcome is
2950 based upon an element of chance, excluding the playing of an amusement device that confers
2951 only an immediate and unrecorded right of replay not exchangeable for value.

2952 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
2953 records and documents as the commission or department may require.

2954 (b) An on-premise banquet licensee or person acting for the on-premise banquet
2955 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~
2956 ~~entries in any of the books~~] an entry in a book of account or other [~~documents~~] document of the
2957 on-premise banquet licensee required to be made, maintained, or preserved by this title or the
2958 rules of the commission for the purpose of deceiving the commission [~~or~~], the department, or
2959 [~~any of their officials or employees~~] an official or employee of the commission or department,
2960 is subject to:

2961 (i) the suspension or revocation of the on-premise banquet license; and

2962 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2963 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
2964 licensee shall provide the department with advance notice of a scheduled banquet in
2965 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah
2966 Administrative Rulemaking Act.

2967 (b) The advance notice required by Subsection (21)(a) is required to provide any of the
2968 following the opportunity to conduct a random inspection of a banquet:

2969 (i) an authorized representative of the commission or the department; or

2970 (ii) a law enforcement officer.

2971 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
2972 banquet gross receipts from the sale of food, not including:

2973 (a) mix for an alcoholic [~~beverages~~] beverage; and

2974 (b) [~~charges~~] a charge in connection with the service of an alcoholic [~~beverages~~]
2975 beverage.

2976 (23) A person may not transfer an on-premise banquet license from one business
2977 location to another without prior written approval of the commission.

2978 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
2979 barter, give, or attempt in any way to dispose of the license to [~~any other~~] another person,
2980 whether for monetary gain or not.

2981 (b) An on-premise banquet license has no monetary value for the purpose of any type
2982 of disposition.

2983 (25) (a) Room service of an alcoholic [~~beverages~~] beverage to a guest room of a hotel
2984 or resort facility shall be provided in person by an on-premise banquet licensee employee only
2985 to an adult guest in the guest room.

2986 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be left outside a guest room
2987 for retrieval by a guest.

2988 (c) An on-premise banquet licensee may only provide an alcoholic [~~beverages~~]
2989 beverage for room service in a sealed [~~containers~~] container.

2990 (26) An on-premise banquet licensee or an employee of the on-premise banquet
2991 licensee may not knowingly allow a person on a banquet location of a hotel, resort facility,
2992 sports center, or convention center to, in violation of Title 58, Chapter 37, Utah Controlled
2993 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2994 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2995 58-37-2; or

2996 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2997 Section 58-37a-3.

2998 Section 35. Section **32A-5-101** is amended to read:

2999 **32A-5-101. Commission's power to license private clubs -- Limitations.**

3000 (1) Before a private club may sell or allow the consumption of alcoholic beverages on
3001 its premises, the private club shall first obtain a license from the commission as provided in

3002 this chapter.

3003 (2) The commission may grant private club licenses to social clubs, recreational,
3004 athletic, or kindred associations that desire to maintain premises upon which alcoholic
3005 beverages may be stored, sold, served, and consumed.

3006 (3) At the time the commission grants a private club license the commission shall
3007 designate whether the private club license qualifies as a class A, B, C, or D license as defined
3008 in Subsections (3)(a) through (d).

3009 (a) A "class A licensee" is a private club licensee that:

3010 (i) meets the requirements of this chapter;

3011 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a
3012 club house such as:

3013 (A) a golf course; or

3014 (B) a tennis facility;

3015 (iii) has at least 50% of the total membership having:

3016 (A) full voting rights; and

3017 (B) an equal share of the equity of the club; and

3018 (iv) if there is more than one class of membership, has at least one class of membership
3019 that entitles each member in that class to:

3020 (A) full voting rights; and

3021 (B) an equal share of the equity of the club.

3022 (b) A "class B licensee" is a private club licensee that:

3023 (i) meets the requirements of this chapter;

3024 (ii) has no capital stock;

3025 (iii) exists solely for:

3026 (A) the benefit of its members and their beneficiaries; and

3027 (B) [any] a lawful social, intellectual, educational, charitable, benevolent, moral,

3028 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
3029 through voluntary activity of its members in their local lodges;

3030 (iv) has a representative form of government; and

3031 (v) has a lodge system in which:

3032 (A) there is a supreme governing body;

3033 (B) subordinate to the supreme governing body are local lodges, however designated,
3034 into which individuals are admitted as members in accordance with the laws of the fraternal;

3035 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
3036 least monthly; and

3037 (D) the local lodges regularly engage in one or more programs involving member
3038 participation to implement the purposes of Subsection (3)(b)(iii).

3039 (c) A "class C licensee" is a private club licensee that:

3040 (i) meets the requirements of this chapter;

3041 (ii) is a dining club, as determined by the commission in accordance with Subsection
3042 (4); and

3043 (iii) maintains at least 50% of its total private club business from the sale of food, not
3044 including:

3045 (A) mix for alcoholic beverages; or

3046 (B) service charges.

3047 (d) A "class D licensee" is a private club licensee that:

3048 (i) meets the requirements of this chapter; and

3049 (ii) (A) does not meet the requirements of a class A, B, or C license; or

3050 (B) seeks to qualify as a class D licensee.

3051 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the
3052 commission:

3053 (a) shall determine whether the applicant maintains at least 50% of its total private club
3054 business from the sale of food, not including:

3055 (i) mix for alcoholic beverages;

3056 (ii) service charges; or

3057 (iii) membership and visitor card fees; and

3058 (b) may consider:

3059 (i) the square footage and seating capacity of the applicant;

3060 (ii) what portion of the square footage and seating capacity will be used for a dining
3061 area in comparison to the portion that will be used as a bar area;

3062 (iii) whether full meals including appetizers, main courses, and desserts are served;

3063 (iv) whether the applicant will maintain adequate on-premise culinary facilities to

3064 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
3065 may use the culinary facilities of the hotel or resort facility;

- 3066 (v) whether the entertainment provided at the club is suitable for minors; and
- 3067 (vi) the club management's ability to manage and operate a dining club including:
 - 3068 (A) management experience;
 - 3069 (B) past dining club or restaurant management experience; and
 - 3070 (C) the type of management scheme employed by the private club.

3071 (5) (a) A private club or any officer, director, managing agent, or employee of a private
3072 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises
3073 of the club, under a permit issued by local authority or otherwise, unless a private club license
3074 ~~has been~~ is first issued by the commission.

3075 (b) Violation of this Subsection (5) is a class B misdemeanor.

3076 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue
3077 private club licenses at places and in numbers as ~~it~~ the commission considers necessary.

3078 (b) The total number of private club licenses may not at any time aggregate more than
3079 that number determined by dividing the population of the state by ~~[7,300]~~ 7,850.

3080 (c) For purposes of this Subsection (6), population shall be determined by:

- 3081 (i) the most recent United States decennial or special census; or
- 3082 (ii) ~~any other~~ another population determination made by the United States or state
3083 governments.

3084 (d) (i) The commission may issue seasonal private club licenses to be established in
3085 areas the commission considers necessary.

3086 (ii) A seasonal private club license shall be for a period of six consecutive months.

3087 (iii) A private club license issued for operation during a summer time period is known
3088 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license
3089 shall:

3090 (A) begin on May 1; and

3091 (B) end on October 31.

3092 (iv) A private club license issued for operation during a winter time period is known as
3093 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license
3094 shall:

3095 (A) begin on November 1; and

3096 (B) end on April 30.

3097 (v) In determining the number of private club licenses that the commission may issue
3098 under this section:

3099 (A) a seasonal private club license is counted as 1/2 of one private club license; and

3100 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

3101 (e) (i) If the location, design, and construction of a hotel may require more than one

3102 private club location within the hotel to serve the public convenience, the commission may

3103 authorize as many as three private club locations within the hotel under one license if:

3104 (A) the hotel has a minimum of 150 guest rooms; and

3105 (B) all locations under the license are:

3106 (I) within the same hotel facility; and

3107 (II) on premises which are managed or operated and owned or leased by the licensee.

3108 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one private

3109 club location under a single private club license.

3110 (7) (a) ~~[The]~~ Except as provided in Subsection (7)(b), (c), or (d), the premises of a

3111 private club license may not be established;

3112 (i) within 600 feet of [any public or private school, church, public library, public

3113 playground, or park] a community location, as measured by the method in Subsection [(8):]

3114 (7)(e); or

3115 ~~[(b) The premises of a private club license may not be established]~~

3116 (ii) within 200 feet of [any public or private school, church, public library, public

3117 playground, or park] a community location, measured in a straight line from the nearest

3118 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~

3119 ~~school, church, public library, public playground, or park] community location.~~

3120 ~~[(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the~~

3121 ~~following exemptions applies:]~~

3122 ~~[(i) with]~~ (b) With respect to the establishment of a private club license ~~[within a city~~

3123 ~~of the third, fourth, or fifth class, a town, or the unincorporated area of a county], the~~

3124 commission may authorize a variance to reduce the proximity ~~[requirements]~~ requirement of

3125 Subsection (7)(a)(i) ~~[or (b)]~~ if:

3126 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the
3127 variance;

3128 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a private club
3129 license in the community are limited;

3130 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
3131 practical in the neighborhood concerned; ~~[and]~~

3132 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
3133 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
3134 establishing the license would not be detrimental to the public health, peace, safety, and
3135 welfare of the community; and

3136 ~~[(ii) with respect to the establishment of a private club license in any location, the~~
3137 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~
3138 ~~(7)(a) or (b) in relation to a church:]~~

3139 ~~[(A) if the local governing body of the church in question gives its written consent to~~
3140 ~~the variance;]~~

3141 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~
3142 ~~neighborhood concerned; and]~~

3143 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
3144 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

3145 (v) (A) the community location governing authority gives its written consent to the
3146 variance; or

3147 (B) when written consent is not given by the community location governing authority,
3148 the commission finds that the applicant has established that:

3149 (I) there is substantial unmet public demand to consume alcohol in a public setting
3150 within the geographic boundary of the local authority in which the private club licensee is to be
3151 located;

3152 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
3153 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club
3154 licensee; and

3155 (III) there is no reasonably viable alternative location within the geographic boundary
3156 of the local authority in which the private club licensee is to be located for establishing a

3157 private club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).

3158 (c) With respect to the establishment of an private club license, the commission may
3159 authorize a variance that reduces the proximity requirement of Subsection (7)(a)(ii) if:

3160 (i) the community location at issue is:

3161 (A) a public library; or

3162 (B) a public park;

3163 (ii) the local authority grants its written consent to the variance;

3164 (iii) the commission finds that alternative locations for establishing a private club
3165 license in the community are limited;

3166 (iv) a public hearing is held in the city, town, or county, and where practical in the
3167 neighborhood concerned;

3168 (v) after giving full consideration to all of the attending circumstances and the policies
3169 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
3170 private club license would not be detrimental to the public health, peace, safety, and welfare of
3171 the community; and

3172 (vi) (A) the community location governing authority gives its written consent to the
3173 variance; or

3174 (B) when written consent is not given by the community location governing authority,
3175 the commission finds that the applicant has established that:

3176 (I) there is substantial unmet public demand to consume alcohol in a public setting
3177 within the geographic boundary of the local authority in which the private club licensee is to be
3178 located;

3179 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
3180 described in Subsection (7)(c)(vi)(B)(I) other than through the establishment of a private club
3181 license; and

3182 (III) there is no reasonably viable alternative location within the geographic boundary
3183 of the local authority in which the private club licensee is to be located for establishing a
3184 private club license to satisfy the unmet demand described in Subsection (7)(c)(vi)(B)(I).

3185 ~~[(iii) with]~~ (d) With respect to the premises of a private club license issued by the
3186 commission that undergoes a change of ownership, the commission may waive or vary the
3187 proximity requirements of Subsection (7)(a) [~~or (b)~~] in considering whether to grant a private

3188 club license to the new owner of the premises if:

3189 (i) (A) the premises previously received a variance reducing the proximity

3190 [~~requirements~~] requirement of Subsection (7)(a)(i) [~~or (b)~~]; or

3191 (B) the premises received a variance reducing the proximity requirement of Subsection

3192 (7)(a)(ii) on or before May 4, 2008; or

3193 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed

3194 under this title.

3195 [~~(8) With respect to any public or private school, church, public library, public~~

3196 ~~playground, or park, the]~~

3197 (e) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the

3198 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the

3199 property boundary of the [~~public or private school, church, public library, public playground, or~~

3200 ~~park]~~ community location.

3201 [~~(9)~~] (8) (a) Nothing in this section prevents the commission from considering the

3202 proximity of any educational, religious, and recreational facility, or any other relevant factor in

3203 reaching a decision on whether to issue a private club license.

3204 (b) For purposes of this Subsection [~~(9)~~] (8), "educational facility" includes:

3205 (i) a nursery school;

3206 (ii) infant day care center; and

3207 (iii) a trade and technical school.

3208 [~~(10)~~] (9) If requested by a private club licensee, the commission may approve a

3209 change in the class of private club license in accordance with rules made by the commission.

3210 Section 36. Section **32A-5-102** is amended to read:

3211 **32A-5-102. Application and renewal requirements.**

3212 (1) A club seeking a class A, B, C, or D private club license under this chapter shall

3213 file a written application with the department in a form prescribed by the department. The

3214 application shall be accompanied by:

3215 (a) a nonrefundable \$250 application fee;

3216 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

3217 (c) written consent of the local authority;

3218 (d) a copy of the applicant's current business license;

3219 (e) evidence of proximity to any [~~public or private school, church, public library,~~
3220 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
3221 ~~Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those~~
3222 ~~subsections]~~ community location, with proximity requirements being governed by Section
3223 32A-5-101;

3224 (f) evidence that the applicant operates a club where a variety of food is prepared and
3225 served in connection with dining accommodations;

3226 (g) a bond as specified by Section 32A-5-106;

3227 (h) a floor plan of the club premises, including consumption areas and the area where
3228 the applicant proposes to keep and store liquor;

3229 (i) evidence that the club is carrying public liability insurance in an amount and form
3230 satisfactory to the department;

3231 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
3232 per occurrence and \$1,000,000 in the aggregate;

3233 (k) a copy of the club's bylaws or house rules, and any amendments to those
3234 documents, which shall be kept on file with the department at all times;

3235 (l) a signed consent form stating that the club and its management will permit any
3236 authorized representative of the commission, department, or any law enforcement officer
3237 unrestricted right to enter the club premises;

3238 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
3239 C, or D private club licensee; and

3240 (ii) evidence that the private club meets the requirements for the classification for
3241 which the club is applying;

3242 (n) in the case of a partnership, corporation, or limited liability company applicant,
3243 proper verification evidencing that the person or persons signing the private club application
3244 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
3245 and

3246 (o) any other information the commission or department may require.

3247 (2) (a) The commission may refuse to issue a license if the commission determines that
3248 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

3249 (i) reasonable; and

- 3250 (ii) consistent with:
- 3251 (A) the declared nature and purpose of the applicant; and
- 3252 (B) the purposes of this chapter.
- 3253 (b) Club bylaws or house rules shall include provisions respecting the following:
- 3254 (i) standards of eligibility for members;
- 3255 (ii) limitation of members, consistent with the nature and purpose of the private club;
- 3256 (iii) the period for which dues are paid, and the date upon which the period expires;
- 3257 (iv) provisions for dropping members for the nonpayment of dues or other cause; and
- 3258 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor
- 3259 cards.

- 3260 (3) (a) All private club licenses expire on June 30 of each year.
- 3261 (b) A person desiring to renew that person's private club license shall submit by no later
- 3262 than May 31:

- 3263 (i) a completed renewal application to the department; and
- 3264 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
3265 under \$10,000	\$1,000
3266 equals or exceeds \$10,000 but less than \$25,000	\$1,250
3267 equals or exceeds \$25,000 but less than \$75,000	\$1,750
3268 equals or exceeds \$75,000	\$2,250

- 3270 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 3271 the license effective on the date the existing license expires.

- 3272 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by
- 3273 the department.

- 3274 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may
- 3275 suspend or revoke any private club license if the private club licensee does not immediately
- 3276 notify the department of any change in:

- 3277 (a) ownership of the club;
- 3278 (b) for a corporate owner, the:
 - 3279 (i) corporate officers or directors; or
 - 3280 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

3281 corporation; or

3282 (c) for a limited liability company:

3283 (i) managers; or

3284 (ii) members owning at least 20% of the limited liability company.

3285 Section 37. Section **32A-5-104** is amended to read:

3286 **32A-5-104. Commission and department duties before granting licenses.**

3287 (1) (a) Before a private club license may be granted by the commission, the department
3288 shall conduct an investigation and may hold public hearings for the purpose of gathering
3289 information and making recommendations to the commission as to whether or not a license
3290 should be granted.

3291 (b) The department shall forward the information and recommendations described in
3292 Subsection (1)(a) to the commission to aid in the commission's determination.

3293 (2) Before issuing [~~any~~] a private club license, the commission shall:

3294 (a) determine that:

3295 (i) the applicant has complied with all basic qualifications and requirements for making
3296 application for a license as provided by Sections 32A-5-102 and 32A-5-103[;]; and [~~that~~]

3297 (ii) the application is complete;

3298 (b) determine whether the applicant qualifies as a class A, B, C, or D private club
3299 licensee;

3300 (c) consider the locality within which the proposed private club outlet is located
3301 including:

3302 (i) physical characteristics such as:

3303 (A) condition of the premises;

3304 (B) square footage; and

3305 (C) parking availability; and

3306 (ii) operational factors such as:

3307 (A) tourist traffic;

3308 (B) proximity to and density of other state stores, package agencies, and licensed
3309 outlets;

3310 (C) demographics;

3311 (D) population to be served; and

- 3312 (E) the extent of and proximity to any [~~school, church, public library, public~~
3313 ~~playground, or park~~] community location;
- 3314 (d) consider the club management's ability to manage and operate a private club
3315 license, including:
- 3316 (i) management experience[?];
- 3317 (ii) past retail liquor experience[?]; and
- 3318 (iii) the type of management scheme employed by the private club;
- 3319 (e) consider the nature or type of private club operation of the proposed liquor licensee,
3320 including:
- 3321 (i) the type of menu items offered and emphasized[?];
- 3322 (ii) the hours of operation[?];
- 3323 (iii) the seating capacity of the facility[?]; and
- 3324 (iv) the gross sales of food items; and
- 3325 (f) consider any other factor or circumstance the commission considers necessary.
- 3326 Section 38. Section **32A-5-107** is amended to read:
- 3327 **32A-5-107. Operational restrictions.**
- 3328 [~~Each~~] A club granted a private club license and the employees, management personnel,
3329 and members of the club shall comply with the following conditions and requirements. Failure
3330 to comply may result in a suspension or revocation of the private club license or other
3331 disciplinary action taken against individual employees or management personnel.
- 3332 (1) [~~Each~~] A private club shall have a governing body that:
- 3333 (a) consists of three or more members of the private club; and
- 3334 (b) holds regular meetings to:
- 3335 (i) review membership applications; and
- 3336 (ii) conduct [~~any~~] other business as required by the bylaws or house rules of the private
3337 club.
- 3338 (2) (a) [~~Each~~] A private club may admit an individual as a member only on written
3339 application signed by the applicant, subject to:
- 3340 (i) the applicant paying an application fee as required by Subsection (4); and
- 3341 (ii) investigation, vote, and approval of a quorum of the governing body.
- 3342 (b) (i) [~~Admissions~~] An admission of a member shall be recorded in the official

3343 minutes of a regular meeting of the governing body.

3344 (ii) An application, whether approved or disapproved, shall be filed as a part of the
3345 official records of the private club licensee.

3346 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
3347 applicant and immediately accord the applicant temporary privileges of a member until the
3348 governing body completes its investigation and votes on the application, subject to the
3349 following conditions:

3350 (i) the applicant shall:

3351 (A) submit a written application; and

3352 (B) pay the application fee required by Subsection (4);

3353 (ii) the governing body votes on the application at its next meeting, which shall take
3354 place no later than 31 days following the day on which the application [~~was~~] is submitted; and

3355 (iii) the applicant's temporary membership privileges [~~are terminated~~] terminate if the
3356 governing body disapproves the application.

3357 (d) The spouse of a member of any class of private club [~~is entitled to all~~] has the rights
3358 and privileges of the member:

3359 (i) to the extent permitted by the bylaws or house rules of the private club; and

3360 (ii) except to the extent restricted by this title.

3361 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
3362 rights and privileges of the member:

3363 (i) to the extent permitted by the bylaws or house rules of the private club; and

3364 (ii) except to the extent restricted by this title.

3365 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
3366 showing:

3367 (i) the date of application of [~~each~~] a proposed member;

3368 (ii) [~~each~~] a member's address;

3369 (iii) the date the governing body approved a member's admission;

3370 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and

3371 (v) the serial number of the membership card issued to [~~each~~] a member.

3372 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~
3373 resigned] a member is dropped or resigns.

3374 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
3375 application fees and membership dues:

- 3376 (i) as established by commission rules; and
- 3377 (ii) [~~which~~] that are collected from all members.

3378 (b) An application fee:

- 3379 (i) [~~shall~~] may not be less than \$4;
- 3380 (ii) shall be paid when the applicant applies for membership; and
- 3381 (iii) at the discretion of the private club, may be credited toward membership dues if
3382 the governing body approves the applicant as a member.

3383 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted
3384 to or use the private club premises as a guest only under the following conditions:

3385 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to
3386 host the guest into the private club:

- 3387 (A) an active member of the private club; or
- 3388 (B) a holder of a current visitor card;

3389 (ii) [~~each~~] a guest must be known by the guest's host based on a preexisting bonafide
3390 business or personal relationship with the host [~~prior to~~] before the guest's admittance to the
3391 private club;

3392 (iii) [~~each~~] a guest must be accompanied by the guest's host for the duration of the
3393 guest's visit to the private club;

3394 (iv) [~~each~~] a guest's host must remain on the private club premises for the duration of
3395 the guest's visit to the private club;

3396 (v) [~~each~~] a guest's host is responsible for the cost of [~~all~~] services extended to the
3397 guest;

3398 (vi) [~~each~~] a guest [~~enjoys~~] has only those privileges derived from the guest's host for
3399 the duration of the guest's visit to the private club;

3400 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

3401 (viii) an employee of the private club, while on duty, may not attempt to locate a
3402 member or current visitor card holder to serve as a host for a guest with whom the member or
3403 visitor card holder has no acquaintance based on a preexisting bonafide business or personal
3404 relationship prior to the guest's arrival at the private club; and

3405 (ix) a private club [~~and its employees~~] or an employee of the private club may not enter
3406 into an agreement or arrangement with a club member or holder of a current visitor card to
3407 indiscriminately host [~~members~~] a member of the general public into the private club as
3408 [~~guests~~] a guest.

3409 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3410 (i) the private club licensee is a class B private club; and

3411 (ii) the guest is a member of the same fraternal organization as the private club
3412 licensee.

3413 (6) [~~Each~~] A private club may, in its discretion, issue a visitor [~~cards~~] card to allow
3414 [~~individuals~~] an individual to enter and use the private club premises on a temporary basis
3415 under the following conditions:

3416 (a) [~~each~~] a visitor card shall be issued for a period not to exceed three weeks;

3417 (b) a fee of not less than \$4 shall be assessed for [~~each~~] a visitor card that is issued;

3418 (c) a visitor card [~~shall~~] may not be issued to a minor;

3419 (d) a holder of a visitor card may not host more than seven guests at one time;

3420 (e) [~~each~~] a visitor card issued shall include:

3421 (i) the visitor's full name and signature;

3422 (ii) the date the visitor card [~~was~~] is issued;

3423 (iii) the date the visitor card expires;

3424 (iv) the club's name; and

3425 (v) the serial number of the visitor card; and

3426 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor
3427 card on the private club premises; and

3428 (ii) the record described in Subsection (6)(f)(i) shall:

3429 (A) be available for inspection by the department; and

3430 (B) include:

3431 (I) the name of the person to whom the visitor card [~~was~~] is issued;

3432 (II) the date the visitor card [~~was~~] is issued;

3433 (III) the date the visitor card expires; and

3434 (IV) the serial number of the visitor card.

3435 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a

3436 patron to be admitted to or use the private club premises other than:

3437 (a) a member;

3438 (b) a visitor who holds a valid visitor card issued under Subsection (6); or

3439 (c) a guest of:

3440 (i) a member; or

3441 (ii) a holder of a [~~current~~] valid visitor card.

3442 (8) (a) A minor may not be:

3443 (i) a member, officer, director, or trustee of a private club;

3444 (ii) issued a visitor card;

3445 (iii) admitted into, use, or be on the premises of [~~any~~] a lounge or bar area, as defined

3446 by commission rule, of [~~any~~] a private club except to the extent authorized under Subsection

3447 (8)(c)(ii);

3448 (iv) admitted into, use, or be on the premises of [~~any~~] a class D private club:

3449 (A) that operates as a sexually oriented business as defined by local ordinance; or

3450 (B) when a sexually oriented entertainer is performing on the premises; or

3451 (v) admitted into, use, or be on the premises of a class D private club except to the

3452 extent authorized under Subsections (8)(b) through (g).

3453 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private

3454 club, a minor may be admitted into, use, or be on the premises of a class D private club under

3455 the following circumstances:

3456 (i) during [~~periods~~] a period when no alcoholic beverages are sold, served, otherwise
3457 furnished, or consumed on the premises, but in no event later than 1 p.m.;

3458 (ii) when accompanied at all times by a member or holder of a current visitor card who
3459 is the minor's parent, legal guardian, or spouse; and

3460 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
3461 service provider.

3462 (c) A [~~minor may be employed by a~~] class D private club may employ a minor on the
3463 premises of the private club if:

3464 (i) the parent or legal guardian of the minor owns or operates the class D private club;

3465 or

3466 (ii) the minor performs maintenance and cleaning services during the hours when the

3467 private club is not open for business.

3468 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
3469 admitted into, use, or be on the premises of a dance or concert hall if:

3470 (A) the dance or concert hall is located:

3471 (I) on the premises of a class D private club; or

3472 (II) on the property that immediately adjoins the premises of and is operated by a class
3473 D private club; and

3474 (B) the commission [~~has issued~~] issues the class D private club a permit to operate a
3475 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

3476 (ii) If the dance or concert hall is located on the premises of a class D private club, a
3477 minor must be properly hosted in accordance with Subsection (5) by:

3478 (A) a member; or

3479 (B) a holder of a current visitor card.

3480 (iii) The commission may issue a minor dance or concert hall permit if:

3481 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

3482 (I) not accessible to [~~minors~~] a minor;

3483 (II) clearly defined; and

3484 (III) separated from the dance or concert hall area by one or more walls, multiple floor
3485 levels, or other substantial physical barriers;

3486 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;

3487 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:

3488 (I) the dance or concert hall area; or

3489 (II) [~~any~~] an area of the private club accessible to a minor;

3490 (D) the private club maintains sufficient security personnel to prevent the passing of
3491 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~]
3492 area to:

3493 (I) the dance or concert hall area; or

3494 (II) [~~any~~] an area of the private club accessible to a minor;

3495 (E) there are one or more separate entrances, exits, and restroom facilities from the
3496 private club's lounge, bar, and alcoholic beverage consumption areas than for:

3497 (I) the dance or concert hall area; or

3498 (II) [~~any~~] an area accessible to a minor; and
3499 (F) the private club complies with any other restrictions imposed by the commission by
3500 rule.

3501 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
3502 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
3503 on the premises of a concert hall described in Subsection (8)(d)(i) if:

3504 (i) [~~all~~] the requirements of Subsection (8)(d) are met; and
3505 (ii) [~~all~~] signage, product, and dispensing equipment containing recognition of an
3506 alcoholic [~~beverages~~] beverage is not visible to the minor.

3507 (f) A minor under 18 years of age but who is 14 years of age or older who is not
3508 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
3509 a concert hall described in Subsection (8)(d)(i) if:

3510 (i) [~~all~~] the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
3511 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
3512 class D private club.

3513 (g) The commission may suspend or revoke a minor dance or concert permit issued to
3514 a class D private club and suspend or revoke the license of the class D private club if:

3515 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
3516 (ii) the private club sells, serves, or otherwise furnishes an alcoholic [~~beverages~~]
3517 beverage to a minor;

3518 (iii) the private club licensee or a supervisory or managerial level employee of the
3519 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
3520 on the basis of [~~activities~~] an activity that [~~occurred~~] occurs on:

3521 (A) the licensed premises; or
3522 (B) the dance or concert hall that is located on property that immediately adjoins the
3523 premises of and is operated by the class D private club;

3524 (iv) there are three or more convictions of patrons of the private club under Title 58,
3525 Chapter 37, Utah Controlled Substances Act, based on activities that [~~occurred~~] occur on:

3526 (A) the licensed premises; or
3527 (B) the dance or concert hall that is located on property that immediately adjoins the
3528 premises of and is operated by the class D private club;

- 3529 (v) there is more than one conviction:
- 3530 (A) of:
- 3531 (I) the private club licensee;
- 3532 (II) an employee of the private club licensee;
- 3533 (III) an entertainer contracted by the private club licensee; or
- 3534 (IV) a patron of the private club licensee; and
- 3535 (B) made on the basis of a lewd [~~acts~~] act or lewd entertainment prohibited by this title
- 3536 that [~~occurred~~] occurs on:
- 3537 (I) the licensed premises; or
- 3538 (II) the dance or concert hall that is located on property that immediately adjoins the
- 3539 premises of and is operated by the class D private club; or
- 3540 (vi) the commission finds acts or conduct contrary to the public welfare and morals
- 3541 involving lewd acts or lewd entertainment prohibited by this title that [~~occurred~~] occurs on:
- 3542 (A) the licensed premises; or
- 3543 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3544 premises of and is operated by the class D private club.
- 3545 (h) Nothing in this Subsection (8) [~~shall prohibit~~] prohibits a class D private club from
- 3546 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or
- 3547 concert area located on the private club premises on days and times when the private club does
- 3548 not allow [~~minors~~] a minor into those areas.
- 3549 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
- 3550 more restrictive of a minor's admittance to, use of, or presence on the premises of [~~any~~] a
- 3551 private club.
- 3552 (9) (a) [~~Each~~] A private club shall maintain an expense ledger or record showing in
- 3553 detail all expenditures separated by payments for:
- 3554 (i) malt or brewed beverages;
- 3555 (ii) liquor;
- 3556 (iii) food;
- 3557 (iv) detailed payroll;
- 3558 (v) entertainment;
- 3559 (vi) rent;

3560 (vii) utilities;
3561 (viii) supplies; and
3562 (ix) ~~[all]~~ other expenditures.
3563 (b) ~~[The]~~ A private club shall keep a record required by this Subsection (9) ~~[shall be]~~:
3564 (i) ~~[kept]~~ in a form approved by the department; and
3565 (ii) balanced each month.
3566 (c) ~~[Each]~~ An expenditure shall be supported by:
3567 (i) a delivery ~~[tickets]~~ ticket;
3568 (ii) ~~[invoices]~~ an invoice;
3569 (iii) a receipted ~~[bills]~~ bill;
3570 (iv) a canceled ~~[checks]~~ check;
3571 (v) a petty cash ~~[vouchers]~~ voucher; or
3572 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
3573 (d) ~~[All invoices and receipted bills]~~ An invoice or receipted bill for the current
3574 calendar or fiscal year documenting ~~[purchases]~~ a purchase made by the private club shall
3575 ~~[also]~~ be maintained.
3576 (10) (a) ~~[Each]~~ A private club shall maintain a minute book that is posted currently by
3577 the private club.
3578 (b) The minute book required by this Subsection (10) shall contain the minutes of ~~[all]~~
3579 a regular ~~[and]~~ or special ~~[meetings]~~ meeting of the governing body.
3580 ~~[(c) Membership lists shall also be maintained.]~~
3581 (c) A private club shall maintain a membership list.
3582 (11) (a) ~~[Each]~~ A private club shall maintain a current ~~[copies]~~ copy of the private
3583 club's current bylaws and current house rules.
3584 (b) ~~[Changes]~~ A change in the bylaws or house rules:
3585 (i) ~~[are]~~ is not effective unless submitted to the department within ten days after
3586 adoption; and
3587 (ii) ~~[become]~~ becomes effective 15 days after received by the department unless
3588 rejected by the department before the expiration of the 15-day period.
3589 (12) ~~[Each]~~ A private club shall maintain accounting and other records and documents
3590 as the department may require.

3591 (13) [~~Any~~] A private club or person acting for the private club, who knowingly forges,
3592 falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of the books~~] an
3593 entry in a book of account or other [~~documents~~] document of the private club licensee required
3594 to be made, maintained, or preserved by this title or the rules of the commission for the purpose
3595 of deceiving the commission [~~or~~], the department, or [~~any of their officials or employees~~] an
3596 official or employee of the commission or department, is subject to:

3597 (a) the suspension or revocation of the private club's license; and

3598 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3599 (14) (a) [~~Each~~] A private club licensee shall maintain and keep [~~all the records~~] a
3600 record required by this section and [~~all other books, records, receipts, and disbursements~~] a
3601 book, record, receipt, or disbursement maintained or used by the licensee, as the department
3602 requires, for a minimum period of three years.

3603 (b) [~~All records, books, receipts, and disbursements are~~] A record, book, receipt, or
3604 disbursement is subject to inspection by an authorized [~~representatives~~] representative of the
3605 commission and the department.

3606 (c) [~~The~~] A private club licensee shall allow the department, through [~~its auditors or~~
3607 examiners] an auditor or examiner of the department, to audit [~~all~~] the records of the private
3608 club licensee at times the department considers advisable.

3609 (d) The department shall audit the records of the private club licensee at least once
3610 annually.

3611 (15) [~~Each~~] A private club licensee shall own or lease premises suitable for the private
3612 club's activities.

3613 (16) (a) A private club licensee may not maintain facilities in [~~any~~] a manner that
3614 barricades or conceals the private club licensee's operation.

3615 (b) [~~Any~~] A member of the commission, authorized department personnel, or [~~any~~] a
3616 peace officer shall, upon presentation of credentials, be admitted immediately to the private
3617 club and permitted without hindrance or delay to inspect completely the entire private club
3618 premises and [~~all~~] the books and records of the private club licensee, at any time during which
3619 [~~the same are open~~] the private club licensee is open for the transaction of business to its
3620 members.

3621 (17) [~~Any public~~] Public advertising related to a private club licensee by the following

3622 shall clearly identify a private club as being "a private club for members":

3623 (a) the private club licensee;

3624 (b) ~~[the employees or agents]~~ an employee or agent of the private club licensee; or

3625 (c) ~~[any]~~ a person under a contract or agreement with the private club licensee.

3626 (18) A private club licensee must have food available at all times when an alcoholic
3627 ~~[beverages are]~~ beverage is sold, served, or consumed on the premises.

3628 (19) (a) Liquor may not be purchased by a private club licensee except from a state
3629 ~~[stores]~~ store or package ~~[agencies]~~ agency.

3630 (b) Liquor purchased ~~[in accordance with Subsection (19)(a)]~~ from a state store or
3631 package agency may be transported by the private club licensee from the place of purchase to
3632 the licensed premises.

3633 (c) Payment for liquor shall be made in accordance with rules established by the
3634 commission.

3635 (20) A private club licensee may sell or provide ~~[any]~~ a primary spirituous liquor only
3636 in a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a calibrated
3637 metered dispensing system approved by the department in accordance with commission rules
3638 adopted under this title, except that:

3639 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3640 system if used as a secondary flavoring ingredient in a beverage subject to the following
3641 restrictions:

3642 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
3643 a primary spirituous liquor;

3644 (ii) the secondary ingredient ~~[is]~~ may not be the only spirituous liquor in the beverage;

3645 (iii) the private club licensee shall designate a location where flavorings are stored on
3646 the floor plan provided to the department; and

3647 (iv) ~~[a]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled
3648 "flavorings";

3649 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3650 system if used:

3651 (i) as a flavoring on ~~[desserts]~~ a dessert; and

3652 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or

3653 dessert; [and]

3654 (c) [~~each~~] a private club patron may have no more than [2-75] 2.5 ounces of spirituous
3655 liquor at a time before the private club patron.

3656 (d) a private club patron may have no more than two spirituous liquor drinks at a time
3657 before the private club patron, except that a private club patron may not have two spirituous
3658 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only
3659 of the primary spirituous liquor for the other spirituous liquor drink.

3660 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
3661 exceed five ounces per glass or individual portion.

3662 (ii) An individual portion may be served to a patron in more than one glass as long as
3663 the total amount of wine does not exceed five ounces.

3664 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3665 Subsection (25)(c).

3666 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
3667 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

3668 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
3669 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
3670 persons.

3671 (c) A wine service may be performed and a service charge assessed by the private club
3672 licensee as authorized by commission rule for wine purchased at the private club.

3673 (22) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
3674 one liter at [~~prices~~] a price fixed by the commission.

3675 (b) A flavored malt beverage may be served in an original container not exceeding one
3676 liter at a price fixed by the commission.

3677 [~~(b)~~] (c) A service charge may be assessed by the private club licensee for heavy beer
3678 or a flavored malt beverage purchased at the private club.

3679 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]
3680 licensee may sell beer for on-premise consumption:

3681 (A) in an open container; and

3682 (B) on draft.

3683 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does

3684 not exceed two liters, except that beer may not be sold to an individual patron in a size of
3685 container that exceeds one liter.

3686 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to
3687 Subsection (23)(a):

3688 (A) may do so without obtaining a separate on-premise beer retailer license from the
3689 commission; and

3690 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
3691 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
3692 restrictions are inconsistent with or less restrictive than the operational restrictions under this
3693 chapter.

3694 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3695 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the
3696 private club's:

3697 (A) state liquor license; and

3698 (B) alcoholic beverage license issued by the local authority.

3699 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
3700 [~~any~~] a place other than as designated in the private club licensee's application, unless the
3701 private club licensee first applies for and receives approval from the department for a change of
3702 location within the private club.

3703 (25) (a) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the
3704 private club from and be served by a person employed, designated, and trained by the private
3705 club licensee to sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

3706 (b) Notwithstanding Subsection (25)(a), a patron who [~~has purchased~~] purchases
3707 bottled wine from an employee of the private club [~~or has carried~~] licensee or carries bottled
3708 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve
3709 wine from the bottle to the patron or others at the patron's table.

3710 (c) [~~Each~~] A private club patron may have no more than two alcoholic beverages of
3711 any kind at a time before the private club patron, subject to the limitation of Subsection (20)(d).

3712 (26) The liquor storage area shall remain locked at all times other than those hours and
3713 days when liquor sales and service are authorized by law.

3714 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a

3715 private club during the following days or hours:

3716 (i) until after the polls are closed on the day of ~~[any]~~ a:

3717 (A) regular general election;

3718 (B) regular primary election; or

3719 (C) statewide special election;

3720 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
3721 service district, or school election, but only:

3722 (A) within the boundaries of the municipality, local district, special service district, or
3723 school district; and

3724 (B) if required by local ordinance; and

3725 (iii) on any other day after 1 a.m. and before 10 a.m.

3726 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
3727 Licenses, for on-premise beer licenses.

3728 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
3729 for one hour after the private club ceases the sale and service of an alcoholic ~~[beverages]~~
3730 beverage during which time a patron of the private club may finish consuming:

3731 (A) ~~[any]~~ a single drink containing spirituous liquor;

3732 (B) a single serving of wine not exceeding five ounces;

3733 (C) a single serving of heavy beer; ~~[or]~~

3734 (D) a single serving of beer not exceeding 26 ounces~~[-];~~ or

3735 (E) a single serving of a flavored malt beverage.

3736 (ii) A private club is not required to remain open:

3737 (A) after all patrons have vacated the premises; or

3738 (B) during an emergency.

3739 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
3740 allow a patron to remain on the premises of the private club to consume an alcoholic
3741 ~~[beverages]~~ beverage on the premises.

3742 (28) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
3743 otherwise furnished to ~~[any]~~ a:

3744 (a) minor;

3745 (b) person actually, apparently, or obviously intoxicated;

3746 (c) known habitual drunkard; or

3747 (d) known interdicted person.

3748 (29) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

3749 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

3750 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
3751 of the alcoholic beverage to the private club licensee.

3752 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
3753 over consumption or intoxication.

3754 (d) The price of a single serving of a primary spirituous liquor shall be the same
3755 whether served as a single drink or in conjunction with another alcoholic beverage.

3756 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
3757 hours of the private club's business day such as a "happy hour."

3758 (f) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
3759 served for the price of a single alcoholic beverage [~~is prohibited~~].

3760 (g) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
3761 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].

3762 (h) A private club licensee may not engage in a promotion involving or offering free
3763 alcoholic beverages to patrons of the private club.

3764 (30) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
3765 the private club licensee by:

3766 (a) the private club licensee; or

3767 (b) [~~any~~] an employee or agent of the private club licensee.

3768 (31) (a) A person may not bring onto the premises of a private club licensee [~~any~~] an
3769 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
3770 discretion of the licensee, bottled wine onto the premises of [~~any~~] a private club licensee for
3771 on-premise consumption.

3772 (b) Except bottled wine under Subsection (31)(a), a private club [~~or its officers,~~
3773 ~~managers, employees, or agents~~] licensee or an officer, manager, employee, or agent of a
3774 private club licensee may not allow:

3775 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for
3776 consumption on the private club premises; or

3777 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection
3778 (31)(b)(i) on the premises of the private club.

3779 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
3780 or other representative of the private club licensee upon entering the private club.

3781 (d) A wine service may be performed and a service charge assessed by the private club
3782 licensee as authorized by commission rule for wine carried in by a patron.

3783 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]
3784 licensee or an employee of the private club licensee may not permit a patron of the private club
3785 to carry from the private club premises an open container that:

3786 (i) is used primarily for drinking purposes; and

3787 (ii) contains [~~any~~] an alcoholic beverage.

3788 (b) A patron may remove the unconsumed contents of a bottle of wine if before
3789 removal, the bottle [~~has been~~] is recorked or recapped.

3790 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee
3791 to sell, dispense, or handle [~~any~~] an alcoholic beverage.

3792 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be
3793 employed by a class A or C private club licensee to enter the sale at a cash register or other
3794 sales recording device.

3795 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
3796 by or be on the premises of [~~any~~] a class D private club.

3797 (d) A minor may not be employed to work in [~~any~~] a lounge or bar area of [~~any~~] a class
3798 A, B, or C private club licensee.

3799 (34) An employee of a private club licensee, while on duty, may not:

3800 (a) consume an alcoholic beverage; or

3801 (b) be intoxicated.

3802 [~~(35) (a) A private club may not charge for the service or supply of glasses, ice, or~~
3803 ~~mixers unless:]~~

3804 [~~(i) the charges are fixed in the house rules of the club; and]~~

3805 [~~(ii) a copy of the house rules is kept on the club premises and available at all times for~~
3806 ~~examination by patrons of the club.]~~

3807 [~~(b) A charge or fee made in connection with the sale, service, or consumption of~~

3808 ~~liquor may be stated in food or alcoholic beverage menus including:]~~

3809 (35) A private club licensee shall have available on the premises for a patron to review
3810 at the time that the customer requests it, a written alcoholic beverage price list or a menu
3811 containing the price of an alcoholic beverage sold or served by the private club licensee
3812 including:

- 3813 ~~[(i)]~~ (a) a set-up charge;
- 3814 ~~[(ii)]~~ (b) a service charge; or
- 3815 ~~[(iii)]~~ (c) a chilling fee.

3816 (36) ~~[Each]~~ A private club licensee shall display in a prominent place in the private
3817 club:

- 3818 (a) the private club license that is issued by the department;
- 3819 (b) a list of the types and brand names of liquor being served through its calibrated
3820 metered dispensing system; and
- 3821 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3822 drugs is a serious crime that is prosecuted aggressively in Utah."

3823 (37) A private club licensee may not on the premises of the private club:

- 3824 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3825 Chapter 10, Part 11, Gambling;
- 3826 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3827 Part 11, Gambling; or
- 3828 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3829 the risking of something of value for a return or for an outcome when the return or outcome is
3830 based upon an element of chance, excluding the playing of an amusement device that confers
3831 only an immediate and unrecorded right of replay not exchangeable for value.

3832 (38) (a) A private club licensee may not close or cease operation for a period longer
3833 than 240 hours, unless:

- 3834 (i) the private club licensee notifies the department in writing at least seven days before
3835 the ~~[closing]~~ day on which the private club licensee closes or ceases operation; and
- 3836 (ii) the closure or cessation of operation is first approved by the department.

3837 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, ~~[immediate~~
3838 ~~notice of closure shall be made to]~~ the private club licensee shall immediately notify the

3839 department by telephone.

3840 (c) (i) The department may authorize a closure or cessation of operation for a period
3841 not to exceed 60 days.

3842 (ii) The department may extend the initial period an additional 30 days upon:

3843 (A) written request of the private club; and ~~[upon]~~

3844 (B) a showing of good cause.

3845 (ii) A closure or cessation of operation may not exceed a total of 90 days without
3846 commission approval.

3847 (d) The notice required by Subsection (38)(a) shall include:

3848 (i) the dates of closure or cessation of operation;

3849 (ii) the reason for the closure or cessation of operation; and

3850 (iii) the date on which the private club licensee will reopen or resume operation.

3851 (e) Failure of the private club licensee to provide notice and to obtain department
3852 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
3853 automatic forfeiture of:

3854 (i) the private club license; and

3855 (ii) the unused portion of the private club license fee for the remainder of the license
3856 year effective immediately.

3857 (f) Failure of the private club licensee to reopen or resume operation by the approved
3858 date ~~[shall result]~~ results in an automatic forfeiture of:

3859 (i) the private club license; and

3860 (ii) the unused portion of the ~~[club's]~~ private club license fee for the remainder of the
3861 license year.

3862 (39) A private club license may not be transferred from one location to another person,
3863 without prior written approval of the commission.

3864 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
3865 attempt in any way to dispose of the private club license to ~~[any other]~~ another person, whether
3866 for monetary gain or not.

3867 (b) A private club license has no monetary value for the purpose of any type of
3868 disposition.

3869 (41) A private club licensee or an employee of the private club licensee may not

3870 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
3871 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3872 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3873 58-37-2; or

3874 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3875 Section 58-37a-3.

3876 Section 39. Section **32A-7-101** is amended to read:

3877 **32A-7-101. Issuance of single event permits -- Limitations.**

3878 (1) The commission may issue a single event permit to any of the following that is
3879 conducting a convention, civic, or community enterprise, a bona fide:

3880 (a) partnership;

3881 (b) corporation;

3882 (c) limited liability company;

3883 (d) church;

3884 (e) political organization;

3885 (f) incorporated association;

3886 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in
3887 Subsections (1)(a) through (f);

3888 (h) state agency; or

3889 (i) political subdivision of the state including:

3890 (i) a county; or

3891 (ii) a municipality.

3892 (2) ~~The~~ A single event permit may authorize:

3893 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and
3894 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
3895 is otherwise prohibited by this title; and

3896 (b) the storage, sale, service, and consumption of beer at the same event for the period
3897 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)
3898 for the single event permit.

3899 (3) The commission may not issue more than four single event permits in any one
3900 calendar year to the same:

- 3901 (a) partnership;
- 3902 (b) corporation;
- 3903 (c) limited liability company;
- 3904 (d) church;
- 3905 (e) political organization;
- 3906 (f) incorporated association;
- 3907 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in
- 3908 Subsections (3)(a) through (f);
- 3909 (h) state agency; or
- 3910 (i) political subdivision of the state including:
- 3911 (i) a county; or
- 3912 (ii) a municipality.

3913 (4) (a) The 600 foot and 200 foot proximity [~~limitations to educational, religious, and~~
 3914 ~~recreational facilities~~] requirements in relation to a community location that are applicable to a
 3915 state [~~stores~~] store, package [~~agencies~~] agency, [~~and licensees~~] or licensee, do not apply to a
 3916 single event [~~permits~~] permit.

3917 (b) [~~Nothing~~] Notwithstanding Subsection (4)(a), nothing in this section[~~, however,~~]
 3918 prevents the commission from considering the proximity of [~~any~~] an educational, religious, or
 3919 recreational facility, or any other relevant factor in deciding whether to [~~grant~~] issue a single
 3920 event permit.

3921 Section 40. Section **32A-7-106** is amended to read:

3922 **32A-7-106. Operational restrictions.**

3923 (1) (a) [~~Any~~] An organization granted a single event permit and [~~any~~] a person
 3924 involved in the storage, sale, or service of an alcoholic [~~beverages~~] beverage at the event for
 3925 which the permit is issued, shall abide by:

- 3926 (i) this title;
- 3927 (ii) the rules of the commission; and
- 3928 (iii) the special conditions and requirements provided in this section.

3929 (b) Failure to comply with Subsection (1)(a) by an organization or person described in
 3930 Subsection (1)(a):

- 3931 (i) may result in:

- 3932 (A) an immediate revocation of the single event permit;
- 3933 (B) forfeiture of the surety bond; and
- 3934 (C) immediate seizure of ~~[a]n~~ an alcoholic ~~[beverages]~~ beverage present at the event;
- 3935 and
- 3936 (ii) disqualifies the organization from applying ~~[for a single event permit under this~~
3937 ~~chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special~~
3938 ~~Event Beer Permits,]~~ for a period of three years from the date of revocation of the permit~~[-]~~ for:
- 3939 (A) a single event permit under this chapter; or
- 3940 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
3941 Event Beer Permits.
- 3942 (c) ~~[Any]~~ An alcoholic ~~[beverages]~~ beverage seized under this Subsection (1) shall be
3943 returned to the organization after the event if forfeiture proceedings are not instituted under
3944 Section 32A-13-103.
- 3945 (2) Special conditions and requirements for a single event ~~[permittees]~~ permittee
3946 include the following:
- 3947 (a) (i) ~~[All persons]~~ A person involved in the storage, sale, or service of an alcoholic
3948 ~~[beverages]~~ beverage at the event must do so under the supervision and direction of the
3949 permittee.
- 3950 (ii) ~~[All persons]~~ A person involved in the sale or service of an alcoholic ~~[beverages]~~
3951 beverage at the event may not, while on duty:
- 3952 (A) consume an alcoholic beverage; or
- 3953 (B) be intoxicated.
- 3954 (b) (i) ~~[A]n~~ A permittee shall purchase liquor stored, sold, served, and consumed at the
3955 event ~~[shall be purchased by the permittee]~~ from a state store or package agency.
- 3956 ~~[(ii) All beer purchased by the permittee shall be purchased from:]~~
- 3957 (ii) The permittee shall purchase beer from:
- 3958 (A) a licensed beer wholesaler; or
- 3959 (B) a licensed beer retailer.
- 3960 (iii) ~~[A]n~~ An alcoholic ~~[beverages are]~~ beverage is considered under the control of the
3961 permittee during the event.
- 3962 (iv) ~~[Attendees]~~ An attendee of the event may not bring ~~[any]~~ an alcoholic ~~[beverages]~~

3963 beverage onto the premises of the event.

3964 (c) A permittee may not charge more than the maximum amount set forth in the permit
3965 for [~~any~~] an alcoholic beverage.

3966 (d) [~~Each~~] A permittee shall post in a prominent place in the area in which an alcoholic
3967 [~~beverages are being~~] beverage is sold, served, and consumed, a copy of the permit, together
3968 with a list of the operational restrictions and requirements of a single event [~~permittees~~]
3969 permittee set forth in this section.

3970 (e) [~~Alcoholic beverages~~] An alcoholic beverage purchased for the event may not be
3971 stored, sold, served, or consumed in [~~any~~] a location other than that described in the application
3972 and designated on the permit unless the permittee first applies for and receives approval from
3973 the commission for a change of location.

3974 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
3975 quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage except that additional spirituous
3976 liquor may be used in a beverage if:

3977 (A) used as a secondary flavoring ingredient;

3978 (B) used in conjunction with the primary spirituous liquor;

3979 (C) the secondary ingredient is not the only spirituous liquor in the beverage; [~~and~~]

3980 (D) [~~each~~] an attendee [~~may have~~] has no more than [~~2.75~~] 2.5 ounces of spirituous
3981 liquor at a time before the attendee; and

3982 (E) an attendee has no more than one spirituous liquor drink at a time before the
3983 attendee.

3984 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
3985 system.

3986 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
3987 not exceed five ounces per glass or individual portion.

3988 (B) An individual portion may be served to an attendee in more than one glass as long
3989 as the total amount of wine does not exceed five ounces.

3990 (C) An individual portion of wine is considered to be one alcoholic beverage under
3991 Subsection (2)(p).

3992 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at
3993 [~~prices~~] a price fixed by the commission.

3994 (iii) A wine service may be performed and a service charge assessed by the single event
3995 permittee as authorized by commission rule for wine purchased at the event.

3996 (h) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding
3997 one liter at [~~prices~~] a price fixed by the commission.

3998 (ii) A flavored malt beverage may be served in an original container not exceeding one
3999 liter at a price fixed by the commission.

4000 [~~(ii)~~] (iii) A service charge may be assessed by [~~the~~] a single event permittee as
4001 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
4002 event.

4003 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

4004 (A) in an open container; and

4005 (B) on draft.

4006 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
4007 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
4008 container that exceeds one liter.

4009 (j) (i) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
4010 consumed between the hours of 1 a.m. and 10 a.m.

4011 (ii) This Subsection (2)(j) does not preclude a local authority from being more
4012 restrictive with respect to the hours of sale, service, or consumption of an alcoholic [~~beverages~~]
4013 beverage at a temporary single event.

4014 (k) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
4015 furnished until after the polls are closed on the day of [~~any~~] a:

4016 (i) regular general election;

4017 (ii) regular primary election; or

4018 (iii) statewide special election.

4019 (l) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
4020 furnished to [~~any~~] a:

4021 (i) minor;

4022 (ii) person actually, apparently, or obviously intoxicated;

4023 (iii) known habitual drunkard; or

4024 (iv) known interdicted person.

- 4025 (m) (i) (A) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 4026 (B) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 4027 (ii) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 4028 of the alcoholic beverage to the permittee.
- 4029 (iii) An alcoholic beverage may not be sold at a price that encourages over
- 4030 consumption or intoxication.
- 4031 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
- 4032 certain hours of the day of the permitted event.
- 4033 (v) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 4034 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 4035 (vi) The permittee may not engage in a public promotion involving or offering free
- 4036 alcoholic beverages to the general public.
- 4037 (n) A single event permittee and its employees may not permit an attendee to carry
- 4038 from the premises an open container that:
- 4039 (i) is used primarily for drinking purposes; and
- 4040 (ii) contains [~~any~~] an alcoholic beverage.
- 4041 (o) A minor may not sell, serve, dispense, or handle [~~any~~] an alcoholic beverage at the
- 4042 event.
- 4043 (p) [~~Each~~] An attendee may have no more than one alcoholic beverage of any kind at a
- 4044 time before the patron, subject to the limitation in Subsection (2)(f)(i)(E).
- 4045 (3) The permittee shall maintain an expense and revenue ledger or record showing:
- 4046 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
- 4047 components of an alcoholic [~~beverages~~] beverage; and
- 4048 (b) the revenue from the sale of an alcoholic [~~beverages~~] beverage.
- 4049 (4) A single event permit may not be transferred.
- 4050 (5) A single event permittee may not on the premises serviced by the single event
- 4051 permittee:
- 4052 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 4053 Chapter 10, Part 11, Gambling;
- 4054 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 4055 Part 11, Gambling; or

4056 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4057 the risking of something of value for a return or for an outcome when the return or outcome is
4058 based upon an element of chance, excluding the playing of an amusement device that confers
4059 only an immediate and unrecorded right of replay not exchangeable for value.

4060 (6) A single event permittee or an employee of the single event permittee may not
4061 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled
4062 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4063 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4064 58-37-2; or

4065 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4066 Section 58-37a-3.

4067 Section 41. Section **32A-8-101** is amended to read:

4068 **32A-8-101. Commission's power to grant licenses -- Limitations.**

4069 (1) The commission may issue an alcoholic beverage manufacturing [~~licenses to~~
4070 ~~manufacturers whose businesses are] license to a manufacturer whose business in this state is
4071 located in this state for the manufacture, storage, and sale of alcoholic beverages for each type
4072 of license provided by this chapter.~~

4073 (2) The type of manufacturing licenses issued under this chapter are known as a:

4074 (a) winery [~~licenses]~~ license;

4075 (b) distillery [~~licenses]~~ license; and

4076 (c) brewery [~~licenses]~~ license.

4077 (3) (a) A person may not manufacture [~~any~~] an alcoholic beverage unless an alcoholic
4078 beverage manufacturing license [~~has been~~] is issued by the commission.

4079 (b) A separate license is required for each place of manufacture, storage, and sale of an
4080 alcoholic [~~beverages]~~ beverage.

4081 (c) Violation of this Subsection (3) is a class B misdemeanor.

4082 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are~~] is not required to be licensed
4083 under this chapter. [~~However, they~~]

4084 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
4085 the department before selling or delivering:

4086 (i) beer to a licensed beer [~~wholesalers]~~ wholesaler in this state[~~, or~~];

4087 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a
4088 military installation; or

4089 (iii) if a small brewer, beer to a licensed beer [wholesalers or retailers] wholesaler or
4090 retailer in this state.

4091 ~~[(a)]~~ (c) A brewer seeking a certificate of approval shall file a written application with
4092 the department, in a form prescribed by the department. The application shall be accompanied
4093 by:

4094 (i) a nonrefundable \$50 application fee;

4095 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
4096 granted;

4097 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
4098 Firearms to brew beer ~~[and]~~, heavy beer ~~[products]~~, or a flavored malt beverage; and

4099 (iv) any other information or documents the department may require.

4100 ~~[(b) Each]~~ (d) (i) An application shall be signed and verified by oath or affirmation by:

4101 (A) a partner if the brewer is a partnership[;]; or [by]

4102 (B) an executive officer, manager, or person specifically authorized by a corporation or
4103 limited liability company to sign the application [to which shall be attached written evidence of
4104 this authority].

4105 (ii) The brewer filing an application shall attach to the application written evidence of
4106 the authority of the person described in Subsection (4)(d)(i) to sign the application.

4107 ~~[(e)]~~ (e) (i) All certificates of approval expire on December 31 of each year.

4108 (ii) ~~[Brewers]~~ A brewer desiring to renew ~~[their certificates]~~ its certificate shall submit
4109 a renewal fee of \$200, and a completed renewal application to the department no later than
4110 November 30 of the year the certificate expires.

4111 (iii) Failure to meet the renewal requirements ~~[shall result]~~ results in an automatic
4112 forfeiture of the certificate effective on the date the existing certificate expires.

4113 ~~[Renewal applications]~~ A renewal application shall be in a form prescribed by the
4114 department.

4115 (5) The commission may prescribe by policy, directive, or rule, consistent with this
4116 title, the general operational requirements of licensees relating to:

4117 (a) physical facilities;

- 4118 (b) conditions of sale, storage, or manufacture of alcoholic beverages;
- 4119 (c) storage and sales quantity limitations; and
- 4120 (d) other matters considered appropriate by the commission.

4121 Section 42. Section **32A-8-401** is amended to read:

4122 **32A-8-401. Authority and operational restrictions.**

4123 (1) A brewery license allows the licensee to:

4124 (a) manufacture, brew, store, transport, or export beer ~~[and]~~, heavy beer, and flavored
4125 malt beverages;

4126 (b) sell heavy beer ~~[to]~~ and, on or after October 1, 2008, a flavored malt beverage to:

4127 (i) the department~~[-to]~~;

4128 (ii) a military ~~[installations,]~~ installation; and ~~[to]~~

4129 (iii) an out-of-state ~~[customers]~~ customer;

4130 (c) sell beer to a licensed ~~[wholesalers]~~ wholesaler;

4131 (d) in the case of a small brewer, sell in accordance with Subsection (5), beer

4132 manufactured by the brewer to:

4133 (i) a licensed retailer;

4134 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,
4135 Single Event Permits; and

4136 (iii) a holder of a temporary retail beer permit issued by the commission for a
4137 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;
4138 and

4139 (e) warehouse on its premises an alcoholic ~~[beverages which]~~ beverage that it
4140 manufactures or purchases for manufacturing purposes.

4141 (2) If considered necessary, the commission or department may:

4142 (a) require certain alterations to the plant, equipment, or premises;

4143 (b) require the alteration or removal of any unsuitable alcoholic beverage-making
4144 equipment or material;

4145 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary
4146 and working conditions of any plant, premises, and equipment; or

4147 (d) demand that all books, records, or data pertaining to the materials and ingredients
4148 used in the manufacture of alcoholic products are available to the commission or department

4149 upon request.

4150 (3) A brewery licensee may not sell [~~heavy beer~~] the following to any person within the
4151 state except the department [~~and~~] or a military [~~installations.~~] installation:

4152 (a) heavy beer; or

4153 (b) on or after October 1, 2008, a flavored malt beverage.

4154 (4) A brewery licensee may not permit any beer, heavy beer, or flavored malt beverage
4155 to be consumed on its premises, except under the circumstances described in this Subsection
4156 (4).

4157 (a) A brewer may allow its off-duty employees to consume beer, heavy beer, or a
4158 flavored malt beverage on its premises without charge.

4159 (b) A brewery licensee may allow any person who can lawfully buy [~~beer or malted~~
4160 ~~beverages~~] the following for wholesale or retail distribution to consume bona fide samples of
4161 its product on the brewery premises[-]:

4162 (i) beer;

4163 (ii) heavy beer; or

4164 (iii) on or after October 1, 2008, a flavored malt beverage.

4165 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility
4166 allowing consumption on premises of beer in bottles or draft as long as food is also available.

4167 (ii) [~~Any~~] A retail facility located on the premises of a brewery licensee shall be
4168 operated or supervised by the brewer.

4169 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the
4170 requirements of Sections 32A-10-101 and 32A-10-102.

4171 (5) (a) [~~Every~~] A small brewer licensee located in this state, and [~~every~~] a small brewer
4172 located outside this state that obtains a certificate of approval from the department to sell beer
4173 in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer
4174 directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse
4175 facility located in this state for the storage of all beer to be sold to any retailer licensee or
4176 permittee.

4177 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

4178 (i) [~~was~~] is manufactured by the small brewer; and

4179 (ii) [~~has first been~~] is first placed in the small brewer's warehouse facility in this state.

4180 (c) (i) ~~[Each]~~ A small brewer warehouse shall maintain complete beer importation,
4181 inventory, tax, distribution, sales records, and other documents as the department and State Tax
4182 Commission may require.

4183 (ii) The records and documents described in Subsection (5)(c)(i) are subject to
4184 inspection by:

4185 (A) the department; and

4186 (B) the State Tax Commission.

4187 (iii) ~~[Any]~~ A small brewer or person acting for the small brewer, who knowingly
4188 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the records or documents]~~ a
4189 record or document required to be made, maintained, or preserved by this title or the rules of
4190 the commission, or State Tax Commission for the purpose of deceiving the commission,
4191 department, State Tax Commission, or any of their officials or employees, is subject to:

4192 (A) the immediate suspension or revocation of:

4193 (I) the brewery license; or

4194 (II) the certificate of approval; and

4195 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

4196 Section 43. Section **32A-8-501** is amended to read:

4197 **32A-8-501. Commission's power to grant licenses.**

4198 (1) The commission may issue a local industry representative ~~[licenses]~~ license to an
4199 individual ~~[residents]~~ resident of Utah, Utah ~~[partnerships]~~ partnership, Utah ~~[corporations]~~
4200 corporation, ~~[and]~~ or Utah limited liability ~~[companies]~~ company who ~~[are]~~ is employed by a
4201 manufacturer, supplier, or importer, whether compensated by salary, commission, or ~~[any~~
4202 ~~other]~~ another means, to represent liquor~~[, wine, or heavy beer]~~ products with the department,
4203 package agencies, licensees, and permittees under this title~~[-]~~ including:

4204 (a) wine;

4205 (b) heavy beer; or

4206 (c) on or after October 1, 2008, a flavored malt beverage.

4207 (2) (a) Before ~~[any Utah resident, Utah partnership, Utah corporation, or Utah limited~~
4208 ~~liability company]~~ a person described in Subsection (1) may represent ~~[a liquor, wine, or heavy~~
4209 ~~beer]~~ an alcoholic product of a manufacturer, supplier, or importer, the ~~[resident, partnership,~~
4210 ~~or corporation]~~ person shall ~~[first]~~ obtain a local industry representative license from the

4211 commission as provided in this part.

4212 (b) A violation of this Subsection (2) is a class B misdemeanor.

4213 (3) ~~[Individual employees or agents]~~ An individual employee or agent of a local
4214 industry representative ~~[licensees are]~~ licensee is not required to be separately licensed.

4215 (4) A local industry representative may represent more than one manufacturer,
4216 supplier, or importer at a time.

4217 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
4218 representative to represent its products with the department, package agencies, licensees, or
4219 permittees.

4220 (b) ~~[Any]~~ An employee or agent of the manufacturer, supplier, or importer who is not a
4221 local industry representative while in the state shall first register with the department, on forms
4222 provided by the department, before representing alcoholic beverage products with the
4223 department, package agencies, licensees, and permittees of the department.

4224 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and ~~[their]~~ its
4225 employees and agents are subject to the same operational restrictions of this part and Chapter
4226 12, Criminal Offenses.

4227 Section 44. Section **32A-8-503** is amended to read:

4228 **32A-8-503. Qualifications.**

4229 (1) (a) The commission may not grant a local industry representative license to ~~[any]~~ a
4230 person who has been convicted of:

4231 (i) a felony under any federal or state law;

4232 (ii) any violation of any federal or state law or local ordinance concerning the sale,
4233 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
4234 beverages;

4235 (iii) any crime involving moral turpitude; or

4236 (iv) on two or more occasions within the five years before the day on which the license
4237 is granted, driving under the influence of alcohol, any drug, or the combined influence of
4238 alcohol and any drug.

4239 (b) In the case of a partnership, corporation, or limited liability company the
4240 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
4241 offense described in Subsection (1)(a):

- 4242 (i) a partner;
- 4243 (ii) a managing agent;
- 4244 (iii) a manager;
- 4245 (iv) an officer;
- 4246 (v) a director;
- 4247 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
- 4248 the applicant corporation; or
- 4249 (vii) a member who owns at least 20% of the applicant limited liability company.
- 4250 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
- 4251 supervisory or managerial capacity for the local industry representative has been convicted of
- 4252 any offense described in Subsection (1)(a).
- 4253 (2) The commission may immediately suspend or revoke the local industry
- 4254 representative license if after the day on which the local industry representative license is
- 4255 granted, a person described in Subsection (1)(a), (b), or (c):
- 4256 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
- 4257 to the license being granted; or
- 4258 (b) on or after the day on which the license is granted:
- 4259 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
- 4260 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
- 4261 combined influence of alcohol and any drug; and
- 4262 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
- 4263 influence of alcohol and any drug within five years before the day on which the person is
- 4264 convicted of the offense described in Subsection (2)(b)(ii)(A).
- 4265 (3) The director may take emergency action by immediately suspending the operation
- 4266 of the local industry representative license according to the procedures and requirements of
- 4267 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
- 4268 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
- 4269 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
- 4270 or
- 4271 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
- 4272 any drug, or the combined influence of alcohol and any drug; and

4273 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
4274 influence of alcohol and any drug within five years before the day on which the person is
4275 arrested on a charge described in Subsection (3)(b)(i).

4276 (4) (a) (i) The commission may not grant a local industry representative license to [any]
4277 an individual who has had any type of license, agency, or permit issued under this title revoked
4278 within the last three years.

4279 (ii) The commission may not grant a local industry representative license to an
4280 applicant that is a partnership, corporation, or limited liability company if any partner,
4281 managing agent, manager, officer, director, stockholder who holds at least 20% of the total
4282 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of
4283 an applicant limited liability company is or was:

4284 (A) a partner or managing agent of any partnership that had any type of license, agency,
4285 or permit issued under this title revoked within the last three years;

4286 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
4287 of the total issued and outstanding stock of any corporation that had any type of license,
4288 agency, or permit issued under this title revoked within the last three years; or

4289 (C) a manager or member who owns or owned at least 20% of any limited liability
4290 company that had any type of license, agency, or permit issued under this title revoked within
4291 the last three years.

4292 (b) An applicant that is a partnership, corporation, or limited liability company may not
4293 be granted a local industry representative license if any of the following had any type of
4294 license, agency, or permit issued under this title revoked while acting in that person's individual
4295 capacity within the last three years:

4296 (i) [any] a partner or managing agent of the applicant partnership;

4297 (ii) [any] a managing agent, officer, director, or stockholder who holds at least 20% of
4298 the total issued and outstanding stock of the applicant corporation; or

4299 (iii) [any] a manager or member who owns at least 20% of the applicant limited
4300 liability company.

4301 (c) A person acting in an individual capacity may not be granted an industry
4302 representative license if that person was:

4303 (i) a partner or managing agent of a partnership that had any type of license, agency, or

4304 permit issued under this title revoked within the last three years;

4305 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4306 total issued and outstanding stock of a corporation that had any type of license, agency, or
4307 permit issued under this title revoked within the last three years; or

4308 (iii) a manager or member who owned at least 20% of a limited liability company that
4309 had any type of license, agency, or permit issued under this title revoked within the last three
4310 years.

4311 (5) (a) The commission may not grant a local industry representative license to a
4312 minor.

4313 (b) The commission may not grant a local industry representative license to an
4314 applicant that is a partnership, corporation, or limited liability company if any of the following
4315 is a minor:

4316 (i) a partner or managing agent of the applicant partnership;

4317 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4318 total issued and outstanding stock of the applicant corporation; or

4319 (iii) a manager or member who owns at least 20% of the applicant limited liability
4320 company.

4321 (6) Except as otherwise provided, the commission may not grant a local industry
4322 representative license to:

4323 (a) ~~any~~ a holder of any retail license issued under this title that sells:

4324 (i) spirituous liquor;

4325 (ii) wine;

4326 (iii) heavy beer; or

4327 (iv) on or after October 1, 2008, a flavored malt beverage;

4328 (b) ~~any~~ an employee or agent of any retail license issued under this title that sells:

4329 (i) spirituous liquor;

4330 (ii) wine;

4331 (iii) heavy beer; or

4332 (iv) on or after October 1, 2008, a flavored malt beverage; or

4333 (c) ~~any~~ an individual, partnership, corporation, or limited liability company who
4334 holds any interest in any retail license issued under this title that sells;

- 4335 (i) spirituous liquor~~[-]~~;
- 4336 (ii) wine~~[-or]~~;
- 4337 (iii) heavy beer; or
- 4338 (iv) on or after October 1, 2008, a flavored malt beverage.

4339 (7) If ~~[any]~~ an individual, partnership, corporation, or limited liability company to
4340 whom a local industry representative license has been issued under this part no longer
4341 possesses the qualifications required by this title for obtaining that license, the commission
4342 may suspend or revoke that license.

4343 Section 45. Section **32A-8-505** is amended to read:

4344 **32A-8-505. Operational restrictions.**

4345 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
4346 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
4347 state, shall abide by the conditions and requirements set forth in this section.

4348 (b) If ~~[any]~~ a person listed in Subsection (1)(a) knowingly violates or fails to comply
4349 with the conditions and requirements set forth in this section:

4350 (i) ~~[such]~~ the violation or failure to comply may result in:

4351 (A) a suspension or revocation of the license; or

4352 (B) other disciplinary action taken against individual employees or agents of the
4353 licensee; and

4354 (ii) the commission may order the removal of the manufacturer's, supplier's, or
4355 importer's products from the department's sales list and a suspension of the department's
4356 purchase of those products for a period determined by the commission if the manufacturer,
4357 supplier, or importer:

4358 (A) directly committed the violation; or

4359 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
4360 engage in the violation.

4361 (2) A local industry representative licensee, employee or agent of the licensee, or
4362 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
4363 state:

4364 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

4365 (i) assist the department in:

- 4366 (A) ordering, shipping, and delivering merchandise;
- 4367 (B) providing new product notification;
- 4368 (C) obtaining listing and delisting information;
- 4369 (D) receiving price quotations;
- 4370 (E) providing product sales analysis;
- 4371 (F) conducting shelf management; and
- 4372 (G) conducting educational seminars; and
- 4373 (ii) for the purpose of acquiring new listings:
 - 4374 (A) solicit orders from the department; and
 - 4375 (B) submit to the department price lists and samples of the products of the
 - 4376 manufacturer, supplier, or importer;
 - 4377 (b) may not sell any liquor[~~-, wine, or heavy beer~~] within the state except to the
 - 4378 department and military installations[;] including:
 - 4379 (i) wine;
 - 4380 (ii) heavy beer; or
 - 4381 (iii) on or after October 1, 2008, a flavored malt beverage;
 - 4382 (c) may not ship or transport, or cause to be shipped or transported, into this state or
 - 4383 from one place to another within this state any liquor[;] including:
 - 4384 (i) wine[~~-, or~~];
 - 4385 (ii) heavy beer; or
 - 4386 (iii) on or after October 1, 2008, a flavored malt beverage;
 - 4387 (d) may not sell or furnish any liquor[~~-, wine, or heavy beer~~] to any person within this
 - 4388 state other than to the department and military installations[;] including:
 - 4389 (i) wine;
 - 4390 (ii) heavy beer; or
 - 4391 (iii) on or after October 1, 2008, a flavored malt beverage;
 - 4392 (e) except as otherwise provided, may not advertise products it represents in violation
 - 4393 of this title or any other federal or state law;
 - 4394 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and
 - 4395 (g) may only provide samples of products of the manufacturer, supplier, or importer for
 - 4396 tasting and sampling purposes as provided in Section 32A-12-603 by the department.

4397 (3) (a) A local industry representative licensee shall maintain on file with the
4398 department a current accounts list of the names and addresses of all manufacturers, suppliers,
4399 and importers the licensee represents.

4400 (b) The licensee shall notify the department in writing of any changes to the accounts
4401 listed within 14 days from the date the licensee either acquired or lost the account of a
4402 particular manufacturer, supplier, or importer.

4403 (4) A local industry representative licensee shall maintain accounting and other records
4404 and documents as the department may require for at least three years.

4405 (5) ~~Any~~ A local industry representative licensee or person acting for the licensee, who
4406 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
4407 the books of account or other documents of the licensee required to be made, maintained, or
4408 preserved by this title or the rules of the commission for the purpose of deceiving the
4409 commission or the department, or any of their officials or employees, is subject to:

4410 (a) the immediate suspension or revocation of the industry representative's license; and

4411 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

4412 (6) A local industry representative licensee may, for the purpose of becoming educated
4413 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
4414 represents, taste and analyze industry representative samples under the conditions listed in this
4415 Subsection (6).

4416 (a) The licensee may not receive more than two industry representative samples of a
4417 particular type, vintage, and production lot of a particular branded product within a consecutive
4418 120-day period.

4419 (b) (i) ~~Each~~ A sample of liquor may not exceed 1 liter.

4420 (ii) ~~Each~~ Notwithstanding Subsection (6)(b)(i), a sample of [wine or heavy beer] the
4421 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
4422 a larger size, not to exceed 5 liters[-];

4423 (A) wine;

4424 (B) heavy beer; or

4425 (C) on or after October 1, 2008, a flavored malt beverage.

4426 (c) ~~Each~~ An industry representative sample may only be of a product not presently
4427 listed on the department's sales list.

- 4428 (d) (i) [~~Industry~~] An industry representative [~~samples~~] sample shall be shipped:
- 4429 (A) prepaid by the manufacturer, supplier, or importer;
- 4430 (B) by common carrier and not via United States mail; and
- 4431 (C) directly to the department's central administrative warehouse office.
- 4432 (ii) [~~These samples~~] An industry representative sample may not be shipped to any other
- 4433 location within the state.
- 4434 (e) [~~Industry~~] An industry representative [~~samples~~] sample shall be accompanied by a
- 4435 letter from the manufacturer, supplier, or importer:
- 4436 (i) clearly identifying the product as an "industry representative sample"; and
- 4437 (ii) clearly stating:
- 4438 (A) the FOB case price of the product; and
- 4439 (B) the name of the local industry representative for who it is intended.
- 4440 (f) The department shall assess a reasonable handling, labeling, and storage fee for
- 4441 each industry representative sample received.
- 4442 (g) The department shall affix to [~~each~~] a bottle or container a label clearly identifying
- 4443 the product as an "industry representative sample."
- 4444 (h) The department shall:
- 4445 (i) account for and record each industry representative sample received;
- 4446 (ii) account for the sample's disposition; and
- 4447 (iii) maintain a record of the sample and its disposition for a two-year period.
- 4448 (i) [~~Industry~~] An industry representative [~~samples~~] sample may not leave the premises
- 4449 of the department's central administrative warehouse office.
- 4450 (j) [~~Licensed~~] A licensed industry [~~representatives~~] representative and [~~their~~] the
- 4451 industry representative's employees and agents may, at regularly scheduled days and times
- 4452 established by the department, taste and analyze one or more industry representative samples
- 4453 on the premises of the department's central administrative warehouse office.
- 4454 (k) Any unused contents of an opened product remaining after the product [~~has been~~] is
- 4455 sampled shall be destroyed by the department under controlled and audited conditions
- 4456 established by the department.
- 4457 (l) [~~Industry representative samples~~] An industry representative sample that [~~are~~] is not
- 4458 tasted within 30 days of receipt by the department shall be disposed of at the discretion of the

4459 department in one of the following ways:

4460 (i) contents destroyed under controlled and audited conditions established by the
4461 department; or

4462 (ii) added to the inventory of the department for sale to the public.

4463 (7) An employee or agent of a local industry representative licensee may not be:

4464 (a) the holder of any retail license issued under this title that sells:

4465 (i) spirituous liquor[;];

4466 (ii) wine[~~;~~];

4467 (iii) heavy beer; or

4468 (iv) on or after October 1, 2008, a flavored malt beverage;

4469 (b) an employee or agent of any retail licensee issued under this title that sells:

4470 (i) spirituous liquor[;];

4471 (ii) wine[~~;~~];

4472 (iii) heavy beer; or

4473 (iv) on or after October 1, 2008, a flavored malt beverage; or

4474 (c) a minor.

4475 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
4476 give, or attempt in any way to dispose of the license to any other person, whether for monetary
4477 gain or not.

4478 (b) A local industry representative license has no monetary value for the purpose of any
4479 type of disposition.

4480 Section 46. Section **32A-10-101** is amended to read:

4481 **32A-10-101. State and local licensing -- Limitations.**

4482 (1) [~~Any~~] A local authority may:

4483 (a) tax or prohibit any retail sale of beer;

4484 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
4485 consumption;

4486 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
4487 consumption at temporary special events that do not last longer than 30 days;

4488 (d) issue, suspend, and revoke licenses to businesses to sell beer at retail for
4489 off-premise consumption;

4490 (e) establish proximity restrictions for establishing premises where beer is sold at retail
4491 for off-premise consumption in relation to any [~~public or private school, church, public library,~~
4492 ~~public playground, or park~~] community location; and

4493 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the
4494 requirements of Sections 32A-10-102 and 32A-10-103.

4495 (2) The commission shall issue [~~licenses~~] a license to sell beer at retail for on-premise
4496 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

4497 (3) [~~Each~~] A licensee issued a license for on-premise consumption, by the commission
4498 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
4499 restrictions provided in Section 32A-10-206, except as otherwise provided.

4500 (4) Suspension or revocation of an on-premise beer retailer license issued by the
4501 commission under Subsection (2) or an on-premise beer retailer license issued by a local
4502 authority under Subsection (1) prohibits the establishment whose license is suspended or
4503 revoked from continuing to operate under the other state or local license it may have.

4504 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
4505 consumption at temporary special events that do not last longer than 30 days as provided in
4506 Part 3, Temporary Special Event Beer Permits.

4507 (6) [~~Each~~] A permittee issued a temporary permit by the commission under Subsection
4508 (5) or by the local authority under Subsection (1), is subject to the operational restrictions
4509 provided in Section 32A-10-306, except as otherwise provided.

4510 (7) Suspension or revocation of a temporary permit issued by the commission under
4511 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
4512 permit is suspended or revoked from continuing to operate under the other state or local permit
4513 the permittee may have.

4514 Section 47. Section **32A-10-102** is amended to read:

4515 **32A-10-102. General restrictions.**

4516 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
4517 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell [~~any~~] beer except
4518 that which [~~has been~~] is lawfully purchased from:

4519 (A) a wholesaler licensed under this title; or [~~from~~]

4520 (B) a small brewer that [~~manufactured~~] manufactures the beer.

4521 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

4522 (b) (i) ~~[All purchases made of beer by any]~~ A beer retailer shall purchase beer only
4523 ~~from a licensed wholesaler [shall be from that wholesaler]~~ who is authorized by the
4524 commission to sell beer in the geographical area in which the beer retailer is located, unless an
4525 alternate wholesaler is authorized by the department to sell to the beer retailer as provided in
4526 Section 32A-11-106.

4527 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

4528 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in
4529 ~~[containers]~~ a container larger than two liters.

4530 (b) For a special event that does not last longer than 30 days:

4531 (i) an on-premise beer retailer license issued by the commission as provided in this part
4532 is not required for the sale of beer at the special event; and

4533 (ii) a temporary beer permit must be obtained from the commission as provided in Part
4534 3, Temporary Special Event Beer Permits.

4535 (3) (a) A minor may not be granted a beer retailer license.

4536 (b) The commission may not grant a beer retailer license to an applicant that is a
4537 partnership, corporation, or limited liability company if any of the following is a minor:

4538 (i) a partner or managing agent of the applicant partnership;

4539 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4540 total issued and outstanding stock of the applicant corporation; or

4541 (iii) a manager or member who owns at least 20% of the applicant limited liability
4542 company.

4543 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
4544 consumption unless:

4545 (a) the sale is done under the supervision of a person 21 years of age or older who is on
4546 the premises; and

4547 (b) the minor is at least 16 years of age.

4548 (5) (a) ~~[If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise~~
4549 ~~consumption, the]~~ Subject to the other provisions of this Subsection (5), a beer retailer shall
4550 ~~[display a sign at the location on the premises where malt beverages or malt liquor is sold~~
4551 ~~stating: "Many malt beverages contain alcohol. Please read the label."];~~

4552 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from
4553 the area where a nonalcoholic beverage is displayed; and

4554 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

4555 (A) is prominent;

4556 (B) is easily readable by a consumer;

4557 (C) meets the requirements for format made by the commission by rule made in
4558 accordance with Title 63, Title 46a, Utah Administrative Rulemaking Act; and

4559 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
4560 alcohol. Please read the label carefully."

4561 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beverage may be displayed with
4562 beer if the nonalcoholic beverage is labeled, packaged, or advertised as a nonalcoholic beer.

4563 (c) The requirements of this Subsection (5) apply to a beer notwithstanding that it is
4564 labeled, packaged, or advertised as:

4565 (i) a malt cooler; or

4566 (ii) a beverage that may provide energy.

4567 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4568 commission shall define by rule what constitutes an "area that is visibly separate and distinct
4569 from the area where a nonalcoholic beverage is displayed."

4570 ~~(b)~~ (e) A violation of this Subsection (5) is an infraction.

4571 Section 48. Section **32A-10-201** is amended to read:

4572 **32A-10-201. Commission's power to grant licenses -- Limitations.**

4573 (1) Before ~~[any]~~ an establishment may sell beer at retail for on-premise consumption, it
4574 shall first obtain:

4575 (a) an on-premise beer retailer license from the commission as provided in this part;
4576 and

4577 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to
4578 sell beer at retail for on-premise consumption; or

4579 (ii) other written consent of the local authority to sell beer at retail for on-premise
4580 consumption.

4581 (2) (a) Subject to the requirements of this section, the commission may issue
4582 on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets

4583 at places and in numbers as it considers proper for the storage, sale, and consumption of beer
4584 on premises operated as on-premise beer retailer outlets.

4585 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
4586 licenses that are taverns may not at any time aggregate more than that number determined by
4587 dividing the population of the state by [~~25,000~~] 30,500.

4588 (c) For purposes of this Subsection (2), the population of the state shall be determined
4589 by:

4590 (i) the most recent United States decennial special census; or

4591 (ii) [~~any other~~] another population determination made by the United States or state
4592 governments.

4593 (d) (i) The commission may issue seasonal licenses for taverns established in areas the
4594 commission considers necessary.

4595 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

4596 (iii) An on-premise beer retailer license for a tavern issued for operation during a
4597 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.
4598 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

4599 (A) begin on May 1; and

4600 (B) end on October 31.

4601 (iv) An on-premise beer retailer license for a tavern issued for operation during a
4602 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.

4603 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

4604 (A) begin on November 1; and

4605 (B) end on April 30.

4606 (v) In determining the number of tavern licenses that the commission may issue under
4607 this section:

4608 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one
4609 on-premise beer retailer license for a tavern; and

4610 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
4611 a "Seasonal B" on-premise beer retailer license for a tavern.

4612 (3) (a) [~~The~~] Except as provided in Subsection (3)(b), (c), or (d), the premises of an
4613 on-premise beer retailer license may not be established;

4614 (i) within 600 feet of [~~any public or private school, church, public library, public~~
 4615 ~~playground, or park~~] a community location, as measured by the method in Subsection [(4):]
 4616 (3)(e); or

4617 [~~(b) The premises of an on-premise beer retailer license may not be established]~~

4618 (ii) within 200 feet of [~~any public or private school, church, public library, public~~
 4619 ~~playground, or park~~] a community location, measured in a straight line from the nearest
 4620 entrance of the proposed outlet to the nearest property boundary of the [~~public or private~~
 4621 ~~school, church, public library, public playground, or park~~] community location.

4622 [~~(c) The restrictions of Subsections (3)(a) and (b) govern unless one of the following~~
 4623 ~~exemptions applies:]~~

4624 [(i) with] (b) With respect to the establishment of an on-premise beer retailer license
 4625 [~~that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the~~
 4626 ~~unincorporated area of a county~~], the commission may authorize a variance to reduce the
 4627 proximity [~~requirements~~] requirement of Subsection (3)(a)(i) [~~or (b)~~] if:

4628 [(A)] (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the
 4629 variance;

4630 [(B)] (ii) the commission finds that alternative locations for establishing an on-premise
 4631 beer retailer [~~tavern~~] license in the community are limited;

4632 [(C)] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where
 4633 practical, in the neighborhood concerned; [~~and~~]

4634 [(D)] (iv) after giving full consideration to all of the attending circumstances and the
 4635 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
 4636 establishing the license would not be detrimental to the public health, peace, safety, and
 4637 welfare of the community; and

4638 [(ii) with respect to the establishment of an on-premise beer retailer license that
 4639 operates as a tavern in any location, the commission may authorize a variance to reduce the
 4640 proximity requirements of Subsection (3)(a) or (b) in relation to a church:]

4641 [(A) if the local governing body of the church in question gives its written consent to
 4642 the variance;]

4643 [(B) following a public hearing in the city, town, or county and where practical in the
 4644 neighborhood concerned; and]

4645 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
4646 ~~policies stated in Subsections 32A-1-104(3) and (4);]~~

4647 ~~[(iii) with respect to the establishment of an on-premise beer retailer license that does~~
4648 ~~not operate as a tavern in any location, the commission may authorize a variance that reduces~~
4649 ~~the proximity requirements of Subsection (3)(a) or (b) if:]~~

4650 ~~[(A) the local governing authority has granted its written consent to the variance;]~~

4651 ~~[(B) alternative locations for establishing an on-premise beer retailer license that does~~
4652 ~~not operate as a tavern in the community are limited;]~~

4653 ~~[(C) a public hearing has been held in the city, town, or county, and where practical in~~
4654 ~~the neighborhood concerned; and]~~

4655 ~~[(D) after giving full consideration to all of the attending circumstances and the~~
4656 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
4657 ~~establishing a license would not be detrimental to the public health, peace, safety, and welfare~~
4658 ~~of the community;]~~

4659 ~~(v) (A) the community location governing authority gives its written consent to the~~
4660 ~~variance; or~~

4661 ~~(B) when written consent is not given by the community location governing authority,~~
4662 ~~the commission finds that the applicant has established that:~~

4663 ~~(I) there is substantial unmet public demand to consume alcohol in a public setting~~
4664 ~~within the geographic boundary of the local authority in which the on-premise beer retailer~~
4665 ~~licensee is to be located;~~

4666 ~~(II) there is no reasonably viable alternative for satisfying substantial unmet demand~~
4667 ~~described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise~~
4668 ~~beer retailer license; and~~

4669 ~~(III) there is no reasonably viable alternative location within the geographic boundary~~
4670 ~~of the local authority in which the on-premise beer retailer licensee is to be located for~~
4671 ~~establishing an on-premise beer retailer license to satisfy the unmet demand described in~~
4672 ~~Subsection (3)(b)(v)(B)(I).~~

4673 ~~(c) With respect to the establishment of an on-premise beer retailer license, the~~
4674 ~~commission may authorize a variance that reduces the proximity requirement of Subsection~~
4675 ~~(3)(a)(ii) if:~~

4676 (i) the community location at issue is:
4677 (A) a public library; or
4678 (B) a public park;
4679 (ii) the local authority grants its written consent to the variance;
4680 (iii) the commission finds that alternative locations for establishing an on-premise beer
4681 retailer license in the community are limited;
4682 (iv) a public hearing is held in the city, town, or county, and where practical in the
4683 neighborhood concerned;
4684 (v) after giving full consideration to all of the attending circumstances and the policies
4685 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
4686 on-premise beer retailer license would not be detrimental to the public health, peace, safety,
4687 and welfare of the community; and
4688 (vi) (A) the community location governing authority gives its written consent to the
4689 variance; or
4690 (B) when written consent is not given by the community location governing authority,
4691 the commission finds that the applicant has established that:
4692 (I) there is substantial unmet public demand to consume alcohol in a public setting
4693 within the geographic boundary of the local authority in which the on-premise beer retailer
4694 licensee is to be located;
4695 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
4696 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of an on-premise
4697 beer retailer license; and
4698 (III) there is no reasonably viable alternative location within the geographic boundary
4699 of the local authority in which the on-premise beer retailer licensee is to be located for
4700 establishing an on-premise beer retailer license to satisfy the unmet demand described in
4701 Subsection (3)(c)(vi)(B)(I).
4702 ~~[(iv) with]~~ (d) (i) With respect to ~~[any]~~ an on-premise beer retailer license issued by
4703 the commission before July 1, 1991, to an establishment that undergoes a change in ownership
4704 after that date, the commission may waive or vary the proximity requirements of this
4705 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new
4706 owner~~;~~ and.

4707 [~~(v)~~ with] (ii) With respect to the premises of an on-premise beer retailer license
4708 issued by the commission that undergoes a change of ownership, the commission may waive or
4709 vary the proximity requirements of Subsection (3)(a) [~~or (b)~~] in considering whether to grant an
4710 on-premise beer retailer license to the new owner of the premises if:

4711 (A) (I) the premises previously received a variance from the proximity [requirements]
4712 requirement of Subsection (3)(a)(i) [~~or (b)~~]; or

4713 (II) the premises received a variance from the proximity requirement of Subsection
4714 (3)(a)(ii) on or before May 4, 2008; or

4715 (B) a variance from proximity [~~or distance~~] requirements was otherwise allowed under
4716 this title.

4717 [~~(4) With respect to any public or private school, church, public library, public~~
4718 ~~playground, or park, the]~~

4719 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
4720 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
4721 property boundary of the [~~public or private school, church, public library, public playground,~~
4722 school playground or park] community location.

4723 [~~(5)~~ (4)] (a) Nothing in this section prevents the commission from considering the
4724 proximity of any educational, religious, and recreational facility, or any other relevant factor in
4725 reaching a decision on a proposed location.

4726 (b) For purposes of this Subsection [~~(5)~~ (4)], "educational facility" includes:

4727 (i) a nursery school;

4728 (ii) an infant day care center; and

4729 (iii) a trade and technical school.

4730 Section 49. Section **32A-10-202** is amended to read:

4731 **32A-10-202. Application and renewal requirements.**

4732 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
4733 written application with the department, in a form prescribed by the department. The
4734 application shall be accompanied by:

4735 (a) a nonrefundable \$250 application fee;

4736 (b) an initial license fee that is refundable if a license is not granted in the following
4737 amount:

- 4738 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
4739 license fee is \$150; or
- 4740 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
4741 \$1,250;
- 4742 (c) written consent of the local authority or a license to sell beer at retail for on-premise
4743 consumption granted by the local authority under Section 32A-10-101;
- 4744 (d) a copy of the applicant's current business license;
- 4745 (e) evidence of proximity to any [~~public or private school, church, public library,~~
4746 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
4747 ~~Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with~~
4748 ~~those subsections]~~ community location, with proximity requirements being governed by
4749 Section 32A-10-201;
- 4750 (f) a bond as specified by Section 32A-10-205;
- 4751 (g) a floor plan of the premises, including consumption areas and the area where the
4752 applicant proposes to keep, store, and sell beer;
- 4753 (h) evidence that the on-premise beer retailer licensee is carrying public liability
4754 insurance in an amount and form satisfactory to the department;
- 4755 (i) for [~~those licensees that sell]~~ a licensee that sells more than \$5,000 of beer annually,
4756 evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of
4757 at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 4758 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
4759 any authorized representative of the commission, department, or any peace officer unrestricted
4760 right to enter the licensee premises;
- 4761 (k) in the case of an applicant that is a partnership, corporation, or limited liability
4762 company, proper verification evidencing that the person or persons signing the on-premise beer
4763 retailer licensee application are authorized to so act on the behalf of the partnership,
4764 corporation, or limited liability company; and
- 4765 (l) any other information the department may require.
- 4766 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
4767 year.
- 4768 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the

- 4769 person's on-premise beer retailer license shall submit by no later than January 31:
- 4770 (A) a completed renewal application to the department; and
- 4771 (B) a renewal fee in the following amount:
- 4772 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
- 4773 is \$200; or
- 4774 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
- 4775 \$1,000.
- 4776 (ii) A licensee is not required to submit a renewal fee if the licensee is:
- 4777 (A) a state agency; or
- 4778 (B) a political subdivision of the state including:
- 4779 (I) a county; or
- 4780 (II) a municipality.
- 4781 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 4782 the license, effective on the date the existing license expires.
- 4783 (d) [~~Renewal applications~~] A renewal statement shall be in a form as prescribed by the
- 4784 department.
- 4785 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
- 4786 suspend or revoke a beer retailer license if [~~any~~] a beer retailer licensee does not immediately
- 4787 notify the department of any change in:
- 4788 (a) ownership of the beer retailer;
- 4789 (b) for a corporate owner, the:
- 4790 (i) corporate officers or directors; and
- 4791 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 4792 corporation; or
- 4793 (c) for a limited liability company:
- 4794 (i) managers; or
- 4795 (ii) members owning at least 20% of the limited liability company.
- 4796 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
- 4797 (f) if the applicant is:
- 4798 (a) a state agency; or
- 4799 (b) a political subdivision of the state including:

4800 (i) a county; or

4801 (ii) a municipality.

4802 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
4803 license is required for each building or resort facility owned or leased by the same applicant.

4804 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
4805 retail beer dispensing outlet located in the same building or on the same resort premises owned
4806 or operated by the same applicant.

4807 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
4808 in the building or resort facility operate in the same manner.

4809 (ii) If the condition described in Subsection (5)(c)(i) is not met:

4810 (A) one state on-premise beer retailer tavern license is required for all outlets in the
4811 same building or on the same resort premises that operate as a tavern; and

4812 (B) one state on-premise beer retailer license is required for all outlets in the same
4813 building or on the same resort premises that do not operate as a tavern.

4814 Section 50. Section **32A-10-204** is amended to read:

4815 **32A-10-204. Commission and department duties before granting licenses.**

4816 (1) (a) Before an on-premise beer retailer license may be granted by the commission
4817 the department shall conduct an investigation and may hold public hearings for the purpose of
4818 gathering information and making recommendations to the commission as to whether or not a
4819 license should be granted. [~~This~~]

4820 (b) The department shall forward the information [~~shall be forwarded~~] and
4821 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the
4822 commission's determination.

4823 (2) Before issuing an on-premise beer retailer license, the commission shall:

4824 (a) determine that:

4825 (i) the applicant has complied with all basic qualifications and requirements for making
4826 application for a license as provided by Sections 32A-10-202 and 32A-10-203[~~;~~]; and [~~that~~]

4827 (ii) the application is complete;

4828 (b) consider the locality within which the proposed on-premise beer retailer outlet is
4829 located including[~~, but not limited to~~]:

4830 (i) physical characteristics such as:

- 4831 (A) the condition of the premises[;];
- 4832 (B) square footage[;]; and
- 4833 (C) parking availability; and
- 4834 (ii) operational factors such as:
- 4835 (A) tourist traffic[;];
- 4836 (B) proximity to and density of other state stores, package agencies, and licensed
- 4837 outlets[;];
- 4838 (C) demographics[;];
- 4839 (D) population served[;]; and
- 4840 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 4841 ~~playground, or park~~] community location;
- 4842 (c) consider the applicant's ability to manage and operate an on-premise beer retailer
- 4843 license including[~~, but not limited to,~~];
- 4844 (i) management experience[;];
- 4845 (ii) past beer retailer experience[;]; and
- 4846 (iii) the type of management scheme employed by the outlet;
- 4847 (d) consider the nature or type of beer retailer operation of the proposed licensee; and
- 4848 (e) consider any other factors or circumstances [~~it~~] the commission considers
- 4849 necessary.
- 4850 Section 51. Section **32A-10-206** is amended to read:
- 4851 **32A-10-206. Operational restrictions.**
- 4852 [Each] A person granted an on-premise beer retailer license and the employees and
- 4853 management personnel of the on-premise beer retailer licensee shall comply with the following
- 4854 conditions and requirements. Failure to comply may result in a suspension or revocation of the
- 4855 license or other disciplinary action taken against individual employees or management
- 4856 personnel.
- 4857 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for
- 4858 on-premise consumption:
- 4859 (i) in an open container; and
- 4860 (ii) on draft.
- 4861 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not

4862 exceed two liters, except that beer may not be sold to an individual patron in a size of container
4863 that exceeds one liter.

4864 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
4865 licensee.

4866 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase
4867 from and be served by a person employed, designated, and trained by the licensee to sell and
4868 serve beer.

4869 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at [~~any~~] an
4870 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

4871 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

4872 (i) minor;

4873 (ii) person actually, apparently, or obviously intoxicated;

4874 (iii) known habitual drunkard; or

4875 (iv) known interdicted person.

4876 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
4877 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
4878 during which time a patron of the tavern may finish consuming a single serving of beer not
4879 exceeding 26 ounces.

4880 (ii) A tavern is not required to remain open:

4881 (A) after all patrons have vacated the premises; or

4882 (B) during an emergency.

4883 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
4884 to remain on the premises to consume alcoholic beverages on the premises.

4885 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

4886 (b) Beer may not be sold at a special or reduced price that encourages over
4887 consumption or intoxication.

4888 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
4889 retailer's business day such as a "happy hour."

4890 (d) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
4891 served for the price of a single alcoholic beverage [~~is prohibited~~].

4892 (e) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic

4893 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].

4894 (f) An on-premise beer licensee may not engage in a public promotion involving or
4895 offering free alcoholic beverages to the general public.

4896 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:

4897 (a) the on-premise beer licensee; or

4898 (b) an employee or agent of the on-premise beer licensee.

4899 (7) Beer sold in a sealed [~~containers~~] container by the on-premise beer retailer licensee
4900 may be removed from the on-premise beer retailer premises.

4901 (8) (a) A person may not bring onto the premises of an on-premise beer retailer
4902 licensee [~~any~~] an alcoholic beverage for on-premise consumption.

4903 (b) An on-premise beer retailer licensee or [~~its officers, managers, employees, or~~
4904 ~~agents~~] an officer, manager, employee, or agent of the licensee may not:

4905 (i) allow a person to bring onto the on-premise beer retailer licensee premises [~~any~~] an
4906 alcoholic beverage for on-premise consumption; or

4907 (ii) allow consumption of [~~any such~~] an alcoholic beverage described in this
4908 Subsection (8) on its premises.

4909 (9) An on-premise beer retailer licensee and [~~its employees~~] an employee or the
4910 licensee may not permit a patron to carry from the premises an open container that:

4911 (a) is used primarily for drinking purposes; and

4912 (b) contains [~~any~~] an alcoholic beverage.

4913 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:

4914 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
4915 dispense, or otherwise furnish beer; or

4916 (ii) on the premises of [~~any~~] a tavern.

4917 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be
4918 employed to enter the sale at a cash register or other sales recording device on the premises of
4919 an on-premise beer retailer that is not a tavern.

4920 (11) An employee of a licensee, while on duty, may not:

4921 (a) consume an alcoholic beverage; or

4922 (b) be intoxicated.

4923 (12) [~~Each~~] An on-premise beer retailer licensee shall display in a prominent place in

4924 the on-premise beer retailer licensee:

4925 (a) the on-premise beer retailer license that is issued by the department; and

4926 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
4927 drugs is a serious crime that is prosecuted aggressively in Utah."

4928 (13) An on-premise beer retailer licensee may not on the premises of the on-premise
4929 beer retailer licensee:

4930 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
4931 Chapter 10, Part 11, Gambling;

4932 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
4933 Part 11, Gambling; or

4934 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4935 the risking of something of value for a return or for an outcome when the return or outcome is
4936 based upon an element of chance, excluding the playing of an amusement device that confers
4937 only an immediate and unrecorded right of replay not exchangeable for value.

4938 (14) (a) Each on-premise beer retailer licensee shall maintain accounting and other
4939 records and documents as the department may require.

4940 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
4941 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
4942 [~~the entries in any of the books~~] an entry in a book of account or other [~~documents~~] document
4943 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this
4944 title or the rules of the commission for the purpose of deceiving the commission [~~or~~], the
4945 department, or any of their officials or employees, is subject to:

4946 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
4947 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4948 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
4949 period longer than 240 hours, unless:

4950 (i) the tavern licensee notifies the department in writing at least seven days before the
4951 closing; and

4952 (ii) the closure or cessation of operation is first approved by the department.

4953 (b) Notwithstanding Subsection (15)(a), in the case of emergency [~~closure, immediate~~
4954 ~~notice of closure shall be made to~~], a tavern licensee shall immediately notify the department

4955 by telephone.

4956 (c) (i) The department may authorize a closure or cessation of operation for a period
4957 not to exceed 60 days.

4958 (ii) The department may extend the initial period an additional 30 days upon:

4959 (A) written request of the tavern licensee; and

4960 (B) a showing of good cause.

4961 (iii) A closure or cessation of operation may not exceed a total of 90 days without
4962 commission approval.

4963 (d) A notice of closure or cessation by a tavern licensee shall include:

4964 (i) the date of closure or cessation of operation;

4965 (ii) the reason for the closure or cessation of operation; and

4966 (iii) the dates on which the tavern licensee will reopen or resume operation.

4967 (e) Failure of the tavern licensee to provide notice and to obtain department
4968 authorization before closure or cessation of operation [~~shall result~~] results effective
4969 immediately in an automatic forfeiture of:

4970 (i) the license; and

4971 (ii) the unused portion of the license fee for the remainder of the license year.

4972 (f) Failure of the tavern licensee to reopen or resume operation by the approved date
4973 [~~shall result~~] results in an automatic forfeiture of:

4974 (i) the license; and

4975 (ii) the unused portion of the license fee for the remainder of the license year.

4976 (16) An on-premise beer retailer license may not be transferred from one location to
4977 another, without prior written approval of the commission.

4978 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
4979 barter, give, or attempt in any way to dispose of the license to any person, whether for
4980 monetary gain or not.

4981 (b) An on-premise beer retailer license has no monetary value for the purpose of any
4982 type of disposition.

4983 (18) An on-premise beer retailer or an employee of the on-premise beer retailer may
4984 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
4985 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4986 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4987 58-37-2; or

4988 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4989 Section 58-37a-3.

4990 Section 52. Section **32A-10-306** is amended to read:

4991 **32A-10-306. Operational restrictions.**

4992 (1) (a) [~~Any~~] A person granted a temporary special event beer permit and any person
4993 involved in the storage, sale, or service of beer at the event for which a temporary special event
4994 the permit is issued, shall abide by this title, the rules of the commission, and the special
4995 conditions and requirements provided in this section.

4996 (b) Failure to comply as provided in Subsection (1)(a):

4997 (i) may result in:

4998 (A) an immediate revocation of the permit;

4999 (B) forfeiture of the surety bond; and

5000 (C) immediate seizure of all beer present at the event; and

5001 (ii) disqualifies the organization from applying for a temporary special event beer
5002 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
5003 period of three years from the date of revocation of the temporary special event permit.

5004 (c) [~~Any beer~~] Beer seized under this Subsection (1) shall be returned to the
5005 organization after the event if forfeiture proceedings are not instituted under Section
5006 32A-13-103.

5007 (2) Special conditions and requirements for temporary special event beer permittees
5008 include the following:

5009 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of beer at the
5010 temporary special event [~~do so~~] is considered to be under the supervision and direction of the
5011 permittee.

5012 (ii) [~~All persons~~] A person involved in the sale or service of beer at the temporary
5013 special event may not, while on duty:

5014 (A) consume an alcoholic beverage; or

5015 (B) be intoxicated.

5016 (b) (i) [~~All beer~~] A permittee shall purchase beer stored, sold, served, and consumed at

5017 the temporary special event [~~shall be purchased by the permittee~~] from a licensed beer
5018 wholesaler or retailer.

5019 (ii) [~~All beer~~] Beer is considered under the control of the permittee during the
5020 temporary special event.

5021 (iii) An attendee of the temporary special event may not bring [~~any~~] an alcoholic
5022 [~~beverages~~] beverage onto the premises of the temporary special event.

5023 (c) [~~Each~~] A permittee shall post in a prominent place in the area in which beer is being
5024 sold, served, and consumed:

5025 (i) a copy of the permit; and

5026 (ii) a list of the operational restrictions and requirements of temporary special event
5027 beer permittees set forth in this section.

5028 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
5029 consumed in [~~any~~] a location other than that described in the application and designated on the
5030 temporary special event permit unless the permittee first applies for and receives approval from
5031 the commission for a change of location.

5032 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

5033 (A) in an open container; and

5034 (B) on draft.

5035 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
5036 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
5037 container that exceeds one liter.

5038 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
5039 between the hours of 1 a.m. and 10 a.m.

5040 (ii) This Subsection (2)(f) does not preclude a local authority from being more
5041 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
5042 special event.

5043 (g) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

5044 (i) minor;

5045 (ii) person actually, apparently, or obviously intoxicated;

5046 (iii) known habitual drunkard; or

5047 (iv) known interdicted person.

- 5048 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.
- 5049 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.
- 5050 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
- 5051 of the permitted event.
- 5052 (iv) ~~[The sale or service of more]~~ More than one beer beverage may not be sold or
- 5053 served for the price of a single beer beverage ~~[is prohibited]~~.
- 5054 (v) The permittee may not engage in a public promotion involving or offering free beer
- 5055 to the general public.
- 5056 (i) The permittee and its employees may not permit an attendee to carry from the
- 5057 premises an open container that:
- 5058 (i) is used for drinking purposes; and
- 5059 (ii) contains ~~[any]~~ an alcoholic beverage.
- 5060 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
- 5061 event.
- 5062 (3) The permittee shall maintain an expense and revenue ledger or record showing:
- 5063 (a) expenditures made for beer; and
- 5064 (b) the revenue from sale of beer.
- 5065 (4) A temporary special event beer permit may not be transferred.
- 5066 (5) A temporary special event beer permittee may not on the premises serviced by the
- 5067 permittee:
- 5068 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 5069 Chapter 10, Part 11, Gambling;
- 5070 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 5071 Part 11, Gambling; or
- 5072 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 5073 the risking of something of value for a return or for an outcome when the return or outcome is
- 5074 based upon an element of chance, excluding the playing of an amusement device that confers
- 5075 only an immediate and unrecorded right of replay not exchangeable for value.
- 5076 (6) A temporary special event beer permittee or an employee of the temporary special
- 5077 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,
- 5078 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act;

5079 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
5080 58-37-2; or

5081 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
5082 Section 58-37a-3.

5083 Section 53. Section **32A-11-106** is amended to read:

5084 **32A-11-106. Operational restrictions.**

5085 [~~Each~~] A person granted a beer wholesaling license, and the employees and
5086 management personnel of the beer wholesaling licensee, shall comply with the following
5087 conditions and requirements. Failure to comply may result in a suspension or revocation of the
5088 beer wholesaling license or other disciplinary action taken against individual employees or
5089 management personnel of the licensee.

5090 (1) A licensee may not wholesale [~~any~~] a beer manufactured within the state by a
5091 brewer who is not licensed by the commission as a manufacturing licensee.

5092 (2) A licensee may not wholesale [~~any~~] a beer manufactured out of state by a brewer
5093 who has not obtained a certificate of approval from the department.

5094 (3) (a) A licensee may not sell or distribute beer to [~~any~~] a person within the state
5095 except:

5096 (i) a licensed beer retailer;

5097 (ii) a holder of a single event permit issued [~~by the commission~~] pursuant to Chapter 7,
5098 Single Event Permits; or

5099 (iii) a holder of a temporary [~~retail~~] special event beer permit issued [~~by the~~
5100 ~~commission~~] for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special
5101 Event Beer Permits.

5102 (b) A violation of this Subsection (3) is a class A misdemeanor.

5103 (4) (a) A licensee may not sell or distribute [~~any~~] a beer to [~~any~~] a retailer outside of the
5104 geographic area designated on its application, except that if a licensee is temporarily unable to
5105 supply retail dealers within its authorized geographical area, the department may grant
5106 temporary authority to another licensed wholesaler who distributes the same brand in another
5107 area to supply retailers.

5108 (b) A violation of this Subsection (4) is a class B misdemeanor.

5109 (5) (a) [~~Every~~] A licensee shall own, lease, or otherwise control and maintain a

5110 warehouse facility located in this state for the receipt, storage, and further distribution of all
5111 beer sold by the licensee to ~~[any]~~ a person within the state.

5112 (b) A licensee may not sell beer to ~~[any]~~ a person in this state, other than the
5113 department, unless the beer ~~[has]~~ is first ~~[been]~~:

5114 (i) physically removed from the vehicle used to transport the beer from the supplier to
5115 the licensee; and

5116 (ii) delivered into the actual possession and control of the licensee in its warehouse or
5117 other facility.

5118 (6) (a) ~~[Each]~~ A beer wholesaling licensee shall maintain accounting and other records
5119 and documents as the department may require.

5120 (b) ~~[Any]~~ A licensee or person acting for the licensee, who knowingly forges, falsifies,
5121 alters, cancels, destroys, conceals, or removes the entries in ~~[any of the books]~~ a book of
5122 account or other ~~[documents]~~ document of the licensee required to be made, maintained, or
5123 preserved by this title or the rules of the commission for the purpose of deceiving the
5124 commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an official or
5125 employee of the commission or department, is subject to:

5126 (i) the immediate suspension or revocation of the beer wholesaling license; and

5127 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

5128 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any
5129 way to dispose of the beer wholesaling license to ~~[any]~~ a person, whether for monetary gain or
5130 not, unless it is done:

5131 (a) in accordance with the commission rules; and

5132 (b) after written consent ~~[has been]~~ is given by the commission.

5133 (8) A licensee may not sell or distribute ~~[any]~~ an alcoholic beverage that ~~[is not clearly~~
5134 ~~labeled in a manner reasonably calculated to put the public on notice that the beverage is an~~
5135 ~~alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's~~
5136 ~~label which in common usage apprises the general public that the beverage contains alcohol]~~
5137 has not had its label and packaging approved by the department under Chapter 1, Part 8, Malted
5138 Beverages Act.

5139 Section 54. Section **32A-12-212** is amended to read:

5140 **32A-12-212. Unlawful possession -- Exceptions.**

5141 (1) A person may not have or possess within this state any liquor unless authorized by
5142 this title or the rules of the commission, except that:

5143 (a) a person who clears United States Customs when entering this country may have or
5144 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
5145 purchased from without the United States;

5146 (b) a person who moves the person's residence to this state from outside of this state
5147 may have or possess for personal consumption and not for sale or resale, ~~[any]~~ liquor
5148 previously purchased outside the state and brought into this state during the move, if:

5149 (i) the person first obtains department approval ~~[prior to]~~ before moving the liquor into
5150 the state;

5151 (ii) the department affixes the official state label to the liquor; and

5152 (iii) the person pays the department a reasonable administrative handling fee as
5153 determined by the commission;

5154 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
5155 outside the state, may have or possess the liquor and transport or cause the liquor to be
5156 transported into the state if:

5157 (i) the person first obtains department approval ~~[prior to]~~ before moving the liquor into
5158 the state;

5159 (ii) the person provides sufficient documentation to the department to establish the
5160 person's legal right to the liquor as a beneficiary;

5161 (iii) the department affixes the official state label to the liquor; and

5162 (iv) the person pays the department a reasonable administrative handling fee as
5163 determined by the commission; or

5164 (d) a person may transport, have, or possess liquor if:

5165 (i) the person transports, has, or possesses the liquor:

5166 (A) for personal household use and consumption; and

5167 (B) not for:

5168 (I) sale;

5169 (II) resale;

5170 (III) gifting to another; or

5171 (IV) consumption on a premise licensed by the commission;

- 5172 (ii) the liquor is purchased from a store or outlet on a military installation; and
- 5173 (iii) the maximum amount the person transports, has, or possesses under this

5174 Subsection (1)(d) is:

5175 (A) two liters of:

5176 (I) spirituous liquor;

5177 (II) wine; or

5178 (III) a combination of spirituous liquor and wine; and

5179 (B) (I) one case of heavy beer that does not exceed 288 ounces[-]; or

5180 (II) on or after October 1, 2008, one case of a flavored malt beverage that does not
5181 exceed 288 ounces.

5182 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:

5183 (i) is transferring the person's permanent residence to this state; or

5184 (ii) maintains separate residences both in and out of this state.

5185 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
5186 than once.

5187 Section 55. Section **32A-12-222** is amended to read:

5188 **32A-12-222. Unlawful dispensing.**

5189 (1) For purposes of this section:

5190 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

5191 (b) "primary spirituous liquor" does not include [~~any~~] a secondary alcoholic product
5192 used as [~~flavorings~~] a flavoring in conjunction with the primary distilled spirit in the beverage.

5193 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
5194 liquor for consumption on the licensed premises, or [~~any~~] an officer, manager, employee, or
5195 agent of the licensee may not:

5196 (a) sell, serve, dispense, or otherwise furnish [~~any~~] a primary spirituous liquor to [~~any~~]
5197 a person on the licensed premises except in a quantity that does not exceed [~~one ounce~~] 1.5
5198 ounces per beverage dispensed through a calibrated metered dispensing system approved by the
5199 department;

5200 (b) sell, serve, dispense, or otherwise furnish more than a total of [~~2.75~~] 2.5 ounces of
5201 spirituous liquor per beverage;

5202 [~~(c) allow any person on the licensed premises to have more than two alcoholic~~]

5203 ~~beverages containing spirituous liquor at a time; or]~~

5204 ~~[(d)]~~ (c) allow any person on the licensed premises to have more than a total of ~~[2.75]~~

5205 2.5 ounces of spirituous liquor at a time~~[-]~~;

5206 ~~[(3) Any of the following or an officer, manager, employee, or agent of the following~~

5207 ~~may not]~~

5208 (d) allow any person on the premises of the following to have more than one spirituous

5209 liquor beverage at a time:

5210 ~~[(a)]~~ (i) a restaurant liquor licensee;

5211 ~~[(b) limited restaurant licensee;]~~

5212 ~~[(c)]~~ (ii) an on-premise banquet licensee; or

5213 ~~[(d)]~~ (iii) a single event permittee~~[-]~~; or

5214 (e) allow any person to have more than two spirituous liquor beverages at a time in

5215 violation of:

5216 (i) Subsection 32A-4-206(2)(d); or

5217 (ii) Subsection 32A-5-107(20)(d).

5218 ~~[(4)]~~ (3) A violation of this section is a class C misdemeanor.

5219 Section 56. Section **32A-12-301** is amended to read:

5220 **32A-12-301. Operating without a license or permit.**

5221 (1) ~~[Except as provided by this title or the rules of the commission, a]~~ A person may

5222 not operate the following ~~[if that establishment allows patrons, customers, members, guests,~~

5223 ~~visitors, or other persons]~~ businesses without first obtaining a license under this title if the

5224 business allows a patron, customer, member, guest, visitor, or other person to purchase or

5225 consume an alcoholic ~~[beverages]~~ beverage on the premises of the business:

5226 (a) a restaurant;

5227 (b) an airport lounge;

5228 (c) a private club;

5229 (d) an on-premise beer retailer outlet;

5230 (e) on-premise banquet premises; or

5231 (f) ~~[an establishment]~~ a business similar to one listed in Subsections (1)(a) through (e).

5232 (2) A person conducting an event or function that is open to the general public may not

5233 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic ~~[beverages to persons]~~

5234 beverage to a person attending the event or function without first obtaining a permit under this
5235 title.

5236 (3) A person conducting a privately hosted event or private social function may not
5237 directly or indirectly sell or offer to sell an alcoholic ~~[beverages to persons]~~ beverage to a
5238 person attending the privately hosted event or private social function without first obtaining a
5239 permit under this title.

5240 (4) A person may not operate the following businesses without first obtaining a license
5241 under this title:

5242 (a) a winery manufacturer;

5243 (b) a distillery manufacturer;

5244 (c) a brewery manufacturer;

5245 (d) a local industry representative of:

5246 (i) a manufacturer of an alcoholic beverage;

5247 (ii) a supplier of an alcoholic beverage; or

5248 (iii) an importer of an alcoholic beverage;

5249 (e) a liquor warehouse; or

5250 (f) a beer wholesaler.

5251 (5) A person may not operate a public conveyance in this state without first obtaining a
5252 public service permit under this title if that public conveyance allows a person to purchase or
5253 consume an alcoholic beverage or alcoholic product:

5254 (a) on the public conveyance; or

5255 (b) on the premises of a hospitality room located with a depot, terminal, or similar
5256 facility at which a service is provided to a patron of the public conveyance.

5257 Section 57. Section **32A-12-307** is amended to read:

5258 **32A-12-307. Interfering with suppliers.**

5259 ~~[A]~~ (1) Except as provided in Subsection (2), a member of the commission, the
5260 [department] director, or an employee of the department may not directly or indirectly
5261 participate in any manner, by recommendation or otherwise, in the appointment, employment,
5262 or termination of appointment or employment of [any] an agent, representative, employee, or
5263 officer of [any] a manufacturer, supplier, or importer of liquor[~~, wine, or heavy beer~~] to the
5264 department [except to] including a manufacturer, supplier, or importer of:

- 5265 (a) wine;
- 5266 (b) heavy beer; or
- 5267 (c) on or after October 1, 2008, a flavored malt beverage.
- 5268 (2) A person described in Subsection (1) may participate in the appointment,
- 5269 employment, or termination of appointment or employment to determine qualifications for
- 5270 licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce
- 5271 compliance with this title.

5272 Section 58. Section **32A-12-603** is amended to read:

5273 **32A-12-603. Tied house -- Prohibitions.**

5274 (1) (a) It is unlawful for [~~any~~] an industry member, directly or indirectly or through an

5275 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member

5276 or from the department to the exclusion in whole or in part of any of those products sold or

5277 offered for sale by other persons by acquiring or holding any interest in any license with respect

5278 to the premises of a retailer, except where the license is held by a retailer that is completely

5279 owned by the industry member.

5280 (b) Interest in any retail license includes any interest acquired by a corporate official,

5281 partner, employee, or other representative of the industry member.

5282 (c) Any interest in a retail license acquired by a separate corporation in which the

5283 industry member or the industry member's officials hold ownership or are otherwise affiliated

5284 is an interest in a retail license.

5285 (d) Less than complete ownership of a retail business by an industry member

5286 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

5287 (2) (a) It is unlawful for any industry member, directly or indirectly or through an

5288 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member

5289 or from the department to the exclusion in whole or in part of any of those products sold or

5290 offered for sale by other persons by acquiring any interest in real or personal property owned,

5291 occupied, or used by the retailer in the conduct of the retailer's business.

5292 (b) For purposes of Subsection (2)(a):

5293 (i) "interest" does not include complete ownership of a retail business by an industry

5294 member;

5295 (ii) interest in retail property includes any interest acquired by a corporate official,

5296 partner, employee, or other representative of the industry member;

5297 (iii) any interest in a retail license acquired by a separate corporation in which the
5298 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
5299 retailer's property;

5300 (iv) less than complete ownership of a retail business by an industry member
5301 constitutes an interest in retail property;

5302 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
5303 member constitutes an interest in the retailer's property; and

5304 (vi) the renting of display space by an industry member at a retail establishment
5305 constitutes an interest in the retailer's property.

5306 (3) (a) It is unlawful for any industry member, directly or indirectly or through an
5307 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5308 or from the department to the exclusion in whole or in part of any of those products sold or
5309 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
5310 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
5311 exceptions enumerated in Subsection (4).

5312 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

5313 (A) furnishing things of value to a third party where the benefits resulting from the
5314 things of value flow to individual retailers; and

5315 (B) making payments for advertising to a retailer association or a display company
5316 where the resulting benefits flow to individual retailers.

5317 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

5318 (A) the thing of value was furnished to a retailer by the third party without the
5319 knowledge or intent of the industry member; or

5320 (B) the industry member did not reasonably foresee that the thing of value would have
5321 been furnished to a retailer.

5322 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
5323 members to retailers under Subsection (4) may be furnished directly by a third party to a
5324 retailer.

5325 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,
5326 except as provided in Subsection (4), is the selling of equipment within the meaning of

5327 Subsection (3)(a) regardless of how the equipment is sold.

5328 (ii) The negotiation by an industry member of a special price to a retailer for equipment
5329 from an equipment company is the furnishing of a thing of value within the meaning of
5330 Subsection (3)(a).

5331 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
5332 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
5333 delaying final delivery of products beyond the close of the period of time for which credit is
5334 lawfully extended, is the furnishing of a service or thing of value within the meaning of
5335 Subsection (3)(a).

5336 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
5337 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
5338 service or thing of value within the meaning of Subsection (3)(a).

5339 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
5340 members to retailers under the conditions and within the limitations prescribed in:

5341 (i) this Subsection (4); and

5342 (ii) the applicable federal laws cited in this Subsection (4).

5343 (b) (i) The following may be furnished by an industry member:

5344 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

5345 (B) point of sale advertising materials and consumer advertising specialties as provided
5346 in 27 C.F.R. Sec. 6.84;

5347 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5348 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5349 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

5350 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

5351 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;

5352 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;

5353 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

5354 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and

5355 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.

5356 (ii) The following exceptions provided in federal law are not adopted:

5357 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;

5358 (B) the exception for consumer tasting or sampling at retail establishments provided in
5359 27 C.F.R. Sec. 6.95; and

5360 (C) the exception for participation in retailer association activities provided in 27
5361 C.F.R. Sec. 6.100.

5362 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
5363 and maintain a record:

5364 (A) of all items furnished to a retailer;

5365 (B) on premises of the industry member; and

5366 (C) for a three-year period.

5367 (c) [~~Samples of liquor, wine, and heavy beer~~] A sample of liquor may be provided to
5368 the department under the following conditions [~~listed in this Subsection (4)(c):~~]:

5369 (i) This Subsection (4)(c) includes a sample of:

5370 (A) wine;

5371 (B) heavy beer; or

5372 (C) on or after October 1, 2008, a flavored malt beverage.

5373 ~~(i)~~ (ii) With the department's permission, an industry member may submit department
5374 samples to the department for product testing, analysis, and sampling.

5375 ~~(ii)~~ (iii) No more than two department samples of a particular type, vintage, and
5376 production lot of a particular branded product may be submitted to the department for
5377 department testing, analysis, and sampling within a consecutive 120-day period.

5378 ~~(iii)~~ (iv) (A) [~~Each~~] A sample of liquor may not exceed 1 liter.

5379 (B) [~~Each~~] Notwithstanding Subsection (4)(c)(iv)(A), a sample of [~~wine and heavy~~
5380 ~~beer~~] the following may not exceed 1.5 liters unless that exact product is only commercially
5381 packaged in a larger size, not to exceed 5 liters~~[-]~~:

5382 (I) wine;

5383 (II) heavy beer; or

5384 (III) on or after October 1, 2008, a flavored malt beverage.

5385 ~~(iv)~~ (v) (A) [~~Department samples~~] A department sample submitted to the department:

5386 (I) shall be shipped prepaid by the industry member by common carrier; and

5387 (II) may not be shipped by United States mail directly to the department's central
5388 administrative warehouse office.

5389 (B) [~~Department samples~~] A department sample may not be shipped to any other
5390 location within the state.

5391 [~~(v) Department samples~~] (vi) A department sample submitted to the department shall
5392 be accompanied by a letter from the industry member:

5393 (A) clearly identifying the product as a "department sample"; and

5394 (B) clearly stating the FOB case price of the product.

5395 [~~(vi)~~] (vii) (A) The department may transfer listed items from current stock for use as
5396 comparison control samples or to verify product spoilage as [~~deemed~~] considered appropriate.

5397 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be charged back to
5398 the respective industry member.

5399 [~~(vii)~~] (viii) The department shall:

5400 (A) account for, label, and record all department samples received or transferred;

5401 (B) account for the department sample's disposition; and

5402 (C) maintain a record:

5403 (I) of the samples and their disposition; and

5404 (II) for a two-year period.

5405 [~~(viii)~~] (ix) The department shall affix to each bottle or container a label clearly
5406 identifying the product as a "department sample".

5407 [~~(ix) Each~~] (x) A department sample delivered to the department or transferred from
5408 the department's current stock shall be disposed of at the discretion of the department in one of
5409 the following ways:

5410 (A) tested and analyzed with the remaining contents destroyed under controlled and
5411 audited conditions established by the department;

5412 (B) entire contents destroyed under controlled and audited conditions established by
5413 the department; or

5414 (C) added to the inventory of the department for sale to the public.

5415 [~~(x)~~] (xi) Persons other than authorized department officials may not be in possession
5416 of department samples except as otherwise provided.

5417 (d) Samples of beer may be provided by a beer industry member to a retailer under the
5418 conditions listed in this Subsection (4)(d).

5419 (i) Samples of beer may be provided by an industry member only to a retailer who has

5420 not purchased the brand of beer from that industry member within the last 12 months.

5421 (ii) For each retailer, the industry member may give not more than three gallons of any
5422 brand of beer, except that if a particular product is not available in a size within the quantity
5423 limitation an industry member may furnish the next largest size.

5424 (e) Educational seminars may involve an industry member under the conditions listed
5425 in this Subsection (4)(e).

5426 (i) An industry member may provide or participate in educational seminars:

5427 (A) involving:

5428 (I) the department;

5429 (II) retailers;

5430 (III) holders of educational or scientific special use permits;

5431 (IV) other industry members; or

5432 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

5433 (B) regarding such topics as:

5434 (I) merchandising and product knowledge;

5435 (II) use of equipment; and

5436 (III) tours of alcoholic beverage manufacturing facilities.

5437 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
5438 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).

5439 (iii) (A) A liquor industry member for purposes of this Subsection (4)(e)(iii) includes
5440 an industry member for:

5441 (I) wine;

5442 (II) heavy beer; and

5443 (III) on or after October 1, 2008, a flavored malt beverage.

5444 ~~[(iii)-(A)]~~ (B) A liquor~~[, wine, and heavy beer]~~ industry member may conduct ~~[tastings]~~
5445 a tasting of the industry member's liquor products:

5446 (I) for the department, at the department's request; and

5447 (II) for licensed industry representatives, but only at the department's central
5448 administrative warehouse office.

5449 ~~[(B)]~~ (C) The industry member may only use department or industry representative
5450 samples when conducting any tasting of the industry member's products.

5451 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
5452 retailer either at:

5453 (A) the industry member's premises; or

5454 (B) a retail establishment.

5455 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
5456 member may not conduct tasting or sampling activities with:

5457 (A) a retailer; or

5458 (B) a member of the general public.

5459 (f) A beer industry member may participate in beer retailer association activities to the
5460 extent authorized by 27 C.F.R. Sec. 6.100.

5461 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,
5462 educational, or community activities.

5463 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a
5464 retailer in the selection of the alcoholic beverage products that may be sold at these activities
5465 and events.

5466 (iii) An industry member or retailer violates this section if:

5467 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,
5468 directly or indirectly, the retailer in the selection of alcoholic beverage products; and

5469 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
5470 sale at the activity or event.

5471 (h) (i) An industry member may lease or furnish equipment listed in Subsection
5472 (4)(h)(ii) to a retailer if:

5473 (A) the equipment is leased or furnished for a special event;

5474 (B) a reasonable rental or service fee is charged for the equipment; and

5475 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

5476 (ii) This Subsection (4)(h) applies to the following equipment:

5477 (A) a picnic pump;

5478 (B) a cold plate;

5479 (C) a tub;

5480 (D) a keg box;

5481 (E) a refrigerated trailer;

5482 (F) a refrigerated van; or

5483 (G) a refrigerated draft system.

5484 (i) (i) A liquor industry member for purposes of this Subsection (4)(i) includes an
5485 industry member for:

5486 (A) wine;

5487 (B) heavy beer; or

5488 (C) on or after October 1, 2008, a flavored malt beverage.

5489 ~~[(i)]~~ (ii) A liquor~~[-wine, and heavy beer]~~ industry member may assist the department
5490 in:

5491 (A) ordering, shipping, and delivering merchandise;

5492 (B) new product notification;

5493 (C) listing and delisting information;

5494 (D) price quotations;

5495 (E) product sales analysis;

5496 (F) shelf management; and

5497 (G) educational seminars.

5498 ~~[(ii)]~~ (iii) (A) Subject to Subsection (4)(i)~~[(ii)]~~ (iii)(B), a liquor~~[-wine, and heavy beer]~~
5499 industry member may, for the purpose of acquiring new listings:

5500 (I) solicit orders from the department; and

5501 (II) submit to the department samples of their products under Subsection (4)(c) and
5502 price lists.

5503 (B) An industry member may not solicit either in person, by mail, or otherwise, any
5504 state store personnel for the purpose or with the intent of furthering the sale of a particular
5505 brand or brands of alcoholic beverage product as against another brand or brands.

5506 ~~[(iii)]~~ (iv) (A) Any visitations to a state store or package agency by an industry member
5507 shall be confined to the customer areas of the store unless otherwise approved.

5508 (B) Calls on the state warehouse by industry members are to be confined to the office
5509 area only unless otherwise approved.

5510 ~~[(iv)]~~ (v) A beer industry member may assist licensed retailers in:

5511 (A) ordering, shipping, and delivering beer merchandise;

5512 (B) new product notification;

5513 (C) listing and delisting information;

5514 (D) price quotations;

5515 (E) product sales analysis;

5516 (F) shelf management; and

5517 (G) educational seminars.

5518 [~~(v)~~] (vi) A beer industry member may, for the purpose of acquiring new listings:

5519 (A) solicit orders from licensed retailers; and

5520 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)

5521 and price lists.

5522 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,

5523 to induce any retailer to purchase any alcoholic beverages from the industry member or from

5524 the department to the exclusion in whole or in part of any of those products sold or offered for

5525 sale by other persons by paying or crediting the retailer for any advertising, display, or

5526 distribution service:

5527 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;

5528 and

5529 (b) subject to the exceptions:

5530 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5531 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5532 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,

5533 to induce any retailer to purchase any alcoholic beverages from the industry member or from

5534 the department to the exclusion in whole or in part of any of those products sold or offered for

5535 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of

5536 the retailer.

5537 (7) (a) It is unlawful for any industry member, directly or indirectly or through an

5538 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion

5539 in whole or in part of any beer products sold or offered for sale by other persons by extending

5540 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of

5541 full legal discharge of the retailer through the payment of cash or its equivalent, from all

5542 indebtedness arising from the transaction, so long as that beer purchased or delivered during

5543 the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of

5544 the same month, and beer purchased or delivered after the 15th day of any month is paid for in
5545 cash or its equivalent on or before the 10th day of the next succeeding month.

5546 (b) First party in-state checks are considered cash payment if the checks:

5547 (i) are honored on presentment; and

5548 (ii) received under the terms prescribed in Subsection (7)(a).

5549 (c) An extension of credit for product purchased by an industry member to a retailer

5550 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer

5551 pays in advance or on delivery an amount equal to or greater than the value of each order,

5552 regardless of the manner in which the industry member applies the payment in its records.

5553 (8) (a) It is unlawful for any industry member, directly or indirectly or through an

5554 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member

5555 or from the department to the exclusion in whole or in part of any of those products sold or

5556 offered for sale by other persons by requiring:

5557 (i) the department to take and dispose of a certain quota of any alcoholic products; or

5558 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

5559 (b) (i) It is an unlawful means to induce to require:

5560 (A) the department to purchase one product in order to purchase another; or

5561 (B) a beer retailer to purchase one beer product in order to purchase another.

5562 (ii) This Subsection (8)(b) includes:

5563 (A) the requirement to take a minimum quantity of a product in standard packaging in

5564 order to obtain the same product in some type of premium package such as:

5565 (I) a distinctive decanter; or

5566 (II) a wooden or tin box; or

5567 (B) combination sales if one or more products may be purchased only in combination

5568 with other products and not individually.

5569 (c) This Subsection (8) does not preclude the selling, at a special combination price,

5570 two or more kinds or brands of products so long as the department or beer retailer:

5571 (i) has the option of purchasing either product at the usual price; and

5572 (ii) is not required to purchase any product the department or beer retailer does not

5573 want.

5574 (d) An industry member may package and distribute alcoholic beverages in

5575 combination with other nonalcoholic items or products.

5576 (e) The combination package shall be designed to be delivered intact to the consumer
5577 and the additional cost incurred by the industry member shall be included in the cost to the
5578 department or beer retailer.

5579 Section 59. Section **53-10-102** is amended to read:

5580 **53-10-102. Definitions.**

5581 As used in this chapter:

5582 (1) "Administration of criminal justice" means performance of any of the following:
5583 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
5584 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5585 (2) "Alcoholic [~~beverages~~] beverage" has the same meaning as provided in Section
5586 32A-1-105.

5587 (3) "Alcoholic [~~products~~] product" has the same meaning as provided in Section
5588 32A-1-105.

5589 (4) "Commission" means the Alcoholic Beverage Control Commission.

5590 (5) "Communications services" means the technology of reception, relay, and
5591 transmission of information required by public safety agencies in the performance of their duty.

5592 (6) "Conviction record" means criminal history information indicating a record of a
5593 criminal charge which has led to a declaration of guilt of an offense.

5594 (7) "Criminal history record information" means information on individuals consisting
5595 of identifiable descriptions and notations of:

5596 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and
5597 any disposition arising from any of them; and

5598 (b) sentencing, correctional supervision, and release.

5599 (8) "Criminalist" means the scientific discipline directed to the recognition,
5600 identification, individualization, and evaluation of physical evidence by application of the
5601 natural sciences in law-science matters.

5602 (9) "Criminal justice agency" means courts or a government agency or subdivision of a
5603 government agency that administers criminal justice under a statute, executive order, or local
5604 ordinance and that allocates greater than 50% of its annual budget to the administration of
5605 criminal justice.

5606 (10) "Department" means the Department of Public Safety.

5607 (11) "Director" means the division director appointed under Section 53-10-103.

5608 (12) "Division" means the Criminal Investigations and Technical Services Division
5609 created in Section 53-10-103.

5610 (13) "Executive order" means an order of the president of the United States or the chief
5611 executive of a state that has the force of law and that is published in a manner permitting
5612 regular public access to it.

5613 (14) "Forensic" means dealing with the application of scientific knowledge relating to
5614 criminal evidence.

5615 (15) "Missing child" means any person under the age of 18 years who is missing from
5616 his or her home environment or a temporary placement facility for any reason and whose
5617 location cannot be determined by the person responsible for the child's care.

5618 (16) "Missing person" has the same meaning as provided in Section 26-2-27.

5619 (17) "Pathogens" means disease-causing agents.

5620 (18) "Physical evidence" means something submitted to the bureau to determine the
5621 truth of a matter using scientific methods of analysis.

5622 (19) "Qualifying entity" means a business, organization, or a governmental entity
5623 which employs persons who deal with:

5624 (a) national security interests;

5625 (b) care, custody, or control of children;

5626 (c) fiduciary trust over money; or

5627 (d) health care to children or vulnerable adults.

5628 Section 60. Section **76-5-113** is amended to read:

5629 **76-5-113. Surreptitious administration of certain substances -- Definitions --**

5630 **Penalties -- Defenses.**

5631 (1) As used in this section:

5632 (a) "Administer" means the introduction of a substance into the body by injection,
5633 inhalation, ingestion, or by any other means.

5634 (b) "Alcoholic beverage" has the same meaning as "alcoholic [~~beverages~~] beverage" in
5635 Section 32A-1-105.

5636 (c) "Bodily injury" has the same definition as in Section 76-1-601.

- 5637 (d) "Controlled substance" has the same definition as in Section 58-37-2.
- 5638 (e) "Deleterious substance" means a substance which, if administered, would likely
5639 cause bodily injury.
- 5640 (f) "Poisonous" means a substance which, if administered, would likely cause serious
5641 bodily injury or death.
- 5642 (g) "Prescription drug" has the same definition as in Section 58-17b-102.
- 5643 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.
- 5644 (i) "Substance" means a controlled substance, poisonous substance, or deleterious
5645 substance as defined in this Subsection (1).
- 5646 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal
5647 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to
5648 cause another person to unknowingly consume or receive the administration of:
- 5649 (a) any poisonous, deleterious, or controlled substance; or
5650 (b) any alcoholic beverage.
- 5651 (3) A violation of Subsection (2) is:
- 5652 (a) a second degree felony if the substance is a poisonous substance, regardless of
5653 whether the substance is a controlled substance or a prescription drug;
- 5654 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),
5655 and is a controlled substance or a prescription drug; and
- 5656 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic
5657 beverage.
- 5658 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:
- 5659 (i) provided the appropriate administration of a prescription drug; and
5660 (ii) acted on the reasonable belief that his conduct was in the best interest of the
5661 well-being of the person to whom the prescription drug was administered.
- 5662 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing
5663 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the
5664 trial.
- 5665 (ii) The notice shall specifically identify the factual basis for the defense and the names
5666 and addresses of the witnesses the defendant proposes to examine to establish the defense.
- 5667 (c) The prosecuting attorney shall file and serve the defendant with a notice containing

5668 the names and addresses of the witnesses the prosecutor proposes to examine in order to
5669 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).
5670 This notice shall be filed or served not more than ten days after receipt of the defendant's notice
5671 under Subsection (4)(b), or at another time as the court may direct.

5672 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)
5673 entitles the opposing party to a continuance to allow for preparation.

5674 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may
5675 impose appropriate sanctions.

5676 (5) This section does not diminish the scope of authorized health care by a health care
5677 provider as defined in Section 26-23a-1.

5678 Section 61. **Appropriation.**

5679 As an ongoing appropriation subject to future budget constraints, there is appropriated
5680 from the Liquor Control Fund for fiscal year 2008-09, \$1,589,100 to the Division of Substance
5681 Abuse and Mental Health within the Department of Human Services for purposes of substance
5682 abuse prevention and treatment.

S.B. 211 3rd Sub. (Ivory) - 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.