

EXEMPTION FOR ALCOHOLIC BEVERAGE

MANUFACTURING LICENSE

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine A. Johnson

Senate Sponsor: Dennis E. Stowell

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32A-8-101, as last amended by Laws of Utah 2008, Chapter 391



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

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

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

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

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

- (a) winery license;
- (b) distillery license; and
- (c) brewery license.

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

(b) A separate license is required for each place of manufacture, storage, and sale of an alcoholic beverage.

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

(4) (a) A brewer located outside the state is not required to be licensed under this chapter.

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

- (i) beer to a licensed beer wholesaler in this state;
- (ii) [~~on or after October 1, 2008,~~] a flavored malt beverage to the department or a military installation; or
- (iii) if a small brewer, beer to a licensed beer wholesaler or retailer in this state.

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

- (i) a nonrefundable \$50 application fee;
- (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not granted;
- (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and

59 Firearms to brew beer, heavy beer, or a flavored malt beverage; and
60 (iv) any other information or documents the department may require.
61 (d) (i) An application shall be signed and verified by oath or affirmation by:
62 (A) a partner if the brewer is a partnership; or
63 (B) an executive officer, manager, or person specifically authorized by a corporation or
64 limited liability company to sign the application.
65 (ii) The brewer filing an application shall attach to the application written evidence of
66 the authority of the person described in Subsection (4)(d)(i) to sign the application.
67 (e) (i) All certificates of approval expire on December 31 of each year.
68 (ii) A brewer desiring to renew its certificate shall submit a renewal fee of \$200, and a
69 completed renewal application to the department no later than November 30 of the year the
70 certificate expires.
71 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
72 certificate effective on the date the existing certificate expires.
73 (iv) A renewal application shall be in a form prescribed by the department.
74 (5) The commission may prescribe by policy, directive, or rule, consistent with this
75 title, the general operational requirements of licensees relating to:
76 (a) physical facilities;
77 (b) conditions of sale, storage, or manufacture of alcoholic beverages;
78 (c) storage and sales quantity limitations; and
79 (d) other matters considered appropriate by the commission.
80 (6) (a) As used in this Subsection (6), "fermented alcoholic beverage" means:
81 (i) beer;
82 (ii) heavy beer; or
83 (iii) wine.
84 (b) An individual may without being licensed under this chapter manufacture in the
85 individual's personal residence a fermented alcoholic beverage if:
86 (i) the individual is 21 years of age or older;
87 (ii) the individual manufactures no more than:
88 (A) 100 gallons in a calendar year, if there is one individual that is 21 years of age or
89 older residing in the household; or

90 (B) 200 gallons in a calendar year, if there are two or more individuals who are 21
 91 years of age or older residing in the household;
 92 (iii) the fermented alcoholic beverage is manufactured and used for ~~§~~ [;
 93 ~~(A)] ~~←§~~ personal or family use and consumption ~~§~~ → [; or~~
 94 ~~(B)] , including use at ~~←§~~ an organized event where fermented alcoholic beverages are~~
 94a judged as to taste and
 95 quality; and
 96 (iv) the fermented alcoholic beverage is not for:
 97 (A) sale or offering for sale; or
 98 (B) consumption on a premise licensed by the commission.
 99 (c) An individual may store a fermented alcoholic beverage manufactured as provided
 100 in Subsection (6)(b) in the individual's personal residence.
 101 (d) A fermented alcoholic beverage manufactured in accordance with Subsection (6)(b)
 102 may be removed from the premises where it is manufactured:
 103 (i) for personal or family use, including use at an organized event where fermented
 104 alcoholic beverages are judged as to taste and quality; ~~§~~ → [and] ~~←§~~
 105 (ii) if the fermented alcoholic beverage is transported in compliance with Section
 106 41-6a-526 ~~§~~ → ; and
 106a **(iii) if the fermented alcoholic beverage is removed only in the following quantities:**
 106b **(A) during a calendar year for personal and family use unrelated to an organized event where**
 106c **fermented alcoholic beverages are judged as to taste and quality:**
 106d **(I) one liter of wine for each individual who is 21 years of age or older residing in the**
 106e **household;**
 106f **(II) 72 ounces of heavy beer for each individual who is 21 years of age or older residing in the**
 106g **household; or**
 106h **(III) 72 ounces of beer for each individual who is 21 years of age or older residing in the**
 106i **household; and**
 106j **(B) for on-premise consumption at an organized event where fermented alcoholic beverages**
 106k **are judged as to taste and quality, for each individual who will act as a judge at the event:**
 106l **(I) one ounce of wine by volume;**
 106m **(II) two ounces of heavy beer; or**
 106n **(III) two ounces of beer.**
 106o **(e) A partnership, corporation, or association may not manufacture a fermented alcoholic**
 106p **beverage under this Subsection (6) for personal or family use and consumption without ~~←§~~**

106q **§→ obtaining a license under this chapter, except that an individual who operates a brewery**
106r **under this chapter as an individual owner or in partnership with others, may remove beer**
106s **from the brewery for personal or family use in the amounts described in Subsection (6)(b)(ii) ←§ .**

Legislative Review Note
as of 11-20-08 4:16 PM

Office of Legislative Research and General Counsel

H.B. 51 - Exemption for Alcoholic Beverage Manufacturing License

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
