

Representative Gregory H. Hughes proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT

MODIFICATIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ amends definitional provisions;
- ▶ removes requirements related to state labels and markings;
- ▶ prohibits tampering with a package of an alcoholic beverage;
- ▶ provides for electronic verification of proof of age by certain club licensees;
- ▶ removes restrictions related to election days;
- ▶ addresses dispensing, storage, and bar structures for a restaurant;
- ▶ changes the insurance and liability limits related to dramshop;
- ▶ establishes requirements for renting or leasing a club license premises; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.



26 This bill provides revisor instructions.

27 This bill coordinates with H.B. 349, Heavy Beer Amendments, to merge substantive
28 amendments.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **11-10-1**, as last amended by Laws of Utah 1990, Chapter 23

32 **26-38-2**, as last amended by Laws of Utah 2006, Chapter 202

33 **26-38-3**, as last amended by Laws of Utah 2007, Chapter 20

34 **32A-1-105**, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391

35 **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162

36 **32A-1-109**, as last amended by Laws of Utah 2003, Chapter 314

37 **32A-1-115**, as last amended by Laws of Utah 2008, Chapter 382

38 **32A-1-119**, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391

39 **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317

40 **32A-1-603**, as last amended by Laws of Utah 2008, Chapter 382

41 **32A-2-103**, as last amended by Laws of Utah 2007, Chapter 329

42 **32A-3-106**, as last amended by Laws of Utah 2008, Chapter 266

43 **32A-4-102**, as last amended by Laws of Utah 2008, Chapter 391

44 **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391

45 **32A-4-202**, as last amended by Laws of Utah 2004, Chapter 268

46 **32A-4-303**, as last amended by Laws of Utah 2008, Chapter 391

47 **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391

48 **32A-4-402**, as last amended by Laws of Utah 2008, Chapter 391

49 **32A-5-101**, as last amended by Laws of Utah 2008, Chapter 391

50 **32A-5-102**, as last amended by Laws of Utah 2008, Chapter 391

51 **32A-5-103 (Effective 07/01/09)**, as last amended by Laws of Utah 2008, Chapters 26
52 and 382

53 **32A-5-104**, as last amended by Laws of Utah 2008, Chapter 391

54 **32A-5-106**, as renumbered and amended by Laws of Utah 1990, Chapter 23

55 **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391

56 **32A-10-202**, as last amended by Laws of Utah 2008, Chapter 391

- 57 **32A-12-102**, as last amended by Laws of Utah 2004, Chapter 268
- 58 **32A-12-209.5**, as last amended by Laws of Utah 2008, Chapter 3
- 59 **32A-12-212**, as last amended by Laws of Utah 2008, Chapter 391
- 60 **32A-12-213**, as last amended by Laws of Utah 2007, Chapter 284
- 61 **32A-12-219**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 62 **32A-12-222**, as last amended by Laws of Utah 2008, Chapter 391
- 63 **32A-12-301**, as last amended by Laws of Utah 2008, Chapter 391
- 64 **32A-14a-102**, as last amended by Laws of Utah 2008, Chapter 3
- 65 **32A-14a-103**, as enacted by Laws of Utah 2000, Chapter 197
- 66 **53-10-305**, as last amended by Laws of Utah 2000, Chapter 1

67 ENACTS:

- 68 **32A-1-304.5**, Utah Code Annotated 1953
- 69 **32A-5-109**, Utah Code Annotated 1953

70 REPEALS:

- 71 **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314



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

74 Section 1. Section **11-10-1** is amended to read:

75 **11-10-1. Business license required -- Authorization for issuance, denial,**
76 **suspension, or revocation by local authority.**

77 (1) As used in this chapter, [~~"club," "local authority," "restaurant," and "person"~~] the
78 following have the meaning set forth in Section 32A-1-105[~~7~~]:

- 79 (a) "club licensee";
- 80 (b) "local authority";
- 81 (c) "person"; and
- 82 (d) "restaurant."

83 (2) A person may not operate an association, restaurant, club license, or similar
84 business that allows customers, members, guests, [~~visitors~~] or other persons to possess or
85 consume alcoholic beverages on the premises of the club licensee, association, restaurant, or
86 similar business premises without a business license.

87 (3) Any local authority may issue a business license to any person who owns or

88 operates an association, restaurant, club license premise, or similar business that allows the
89 customers, members, guests, [~~visitors;~~] or other persons to hold, store, possess, or consume
90 alcoholic beverages on the premises. This license does not permit any person to hold, store,
91 possess, or consume alcoholic beverages on the premises other than as provided in Title 32A,
92 [~~the~~] Alcoholic Beverage Control Act.

93 (4) Any local authority may suspend or revoke a business license for a violation of
94 Title 32A, [~~the~~] Alcoholic Beverage Control Act.

95 (5) Each local authority shall set policy by written rules that establish criteria and
96 procedures for granting, denying, suspending, or revoking licenses issued under this chapter.

97 (6) A license issued under this section constitutes consent of the local authority within
98 the meaning of Title 32A, [~~the~~] Alcoholic Beverage Control Act.

99 Section 2. Section **26-38-2** is amended to read:

100 **26-38-2. Definitions.**

101 As used in this chapter:

102 (1) "Place of public access" means any enclosed indoor place of business, commerce,
103 banking, financial service, or other service-related activity, whether publicly or privately owned
104 and whether operated for profit or not, to which persons not employed at the place of public
105 access have general and regular access or which the public uses, including:

106 (a) buildings, offices, shops, elevators, or restrooms;

107 (b) means of transportation or common carrier waiting rooms;

108 (c) restaurants, cafes, or cafeterias;

109 (d) taverns as defined in Section 32A-1-105, or cabarets;

110 (e) shopping malls, retail stores, grocery stores, or arcades;

111 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
112 sites, auditoriums, or arenas;

113 (g) barber shops, hair salons, or laundromats;

114 (h) sports or fitness facilities;

115 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
116 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
117 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
118 of these;

119 (j) (i) any child care facility or program subject to licensure or certification under this
120 title, including those operated in private homes, when any child cared for under that license is
121 present; and

122 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
123 subject to licensure or certification under this title, when any child cared for by the provider,
124 other than the child of the provider, is present;

125 (k) public or private elementary or secondary school buildings and educational
126 facilities or the property on which those facilities are located;

127 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
128 religious organization when used solely by the organization members or their guests or
129 families;

130 (m) any facility rented or leased for private functions from which the general public is
131 excluded and arrangements for the function are under the control of the function sponsor;

132 (n) any workplace that is not a place of public access or a publicly owned building or
133 office but has one or more employees who are not owner-operators of the business; ~~and~~

134 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
135 stating "no smoking", "thank you for not smoking", or similar statement~~[-]; and~~

136 (p) ~~any private~~ a club ~~licensed~~ licensee under Title 32A, Chapter 5, ~~Private~~ Club
137 ~~Liquor~~ Licenses.

138 (2) "Publicly owned building or office" means any enclosed indoor place or portion of
139 a place owned, leased, or rented by any state, county, or municipal government, or by any
140 agency supported by appropriation of, or by contracts or grants from, funds derived from the
141 collection of federal, state, county, or municipal taxes.

142 (3) "Smoking" means the possession of any lighted tobacco product in any form.

143 Section 3. Section **26-38-3** is amended to read:

144 **26-38-3. Restriction on smoking in public places and in specified places --**

145 **Exceptions.**

146 (1) Except as provided in Subsection (2), smoking is prohibited in all enclosed indoor
147 places of public access and publicly owned buildings and offices.

148 (2) Subsection (1) does not apply to:

149 (a) areas not commonly open to the public of owner-operated businesses having no

150 employees other than the owner-operator;

151 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other
152 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
153 of these facilities, including dining areas and lobby areas; and

154 [~~(c) before January 1, 2009, taverns, as defined in Section 32A-1-105, that are:]~~

155 [~~(i) licensed on or before May 15, 2006; or]~~

156 [~~(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in
157 ownership;]~~

158 [~~(d) before January 1, 2009, class D private clubs, as defined in Section 32A-5-101,
159 that are:]~~

160 [~~(i) licensed on or before May 15, 2006; or]~~

161 [~~(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in
162 ownership;]~~

163 [~~(e) before January 1, 2009, class B private clubs, as defined in Section 32A-5-101
164 that:]~~

165 [~~(i) are licensed:]~~

166 [~~(A) on or before May 15, 2006; or]~~

167 [~~(B) on or before May 15, 2006 and after May 15, 2006 undergo a change in
168 ownership; and]~~

169 [~~(ii) do not permit an individual under the age of 21 in the class B private club, unless
170 the individual is active military; and]~~

171 [~~(f)~~] (c) separate enclosed smoking areas:

172 (i) located in the passenger terminals of an international airport located in the city of
173 the first class;

174 (ii) vented directly to the outdoors; and

175 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
176 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

177 Section 4. Section **32A-1-105** is amended to read:

178 **32A-1-105. Definitions.**

179 As used in this title:

180 (1) "Airport lounge" means a place of business licensed to sell an alcoholic beverage,

181 at retail, for consumption on its premises located at an international airport with a United States
182 Customs office on the premises of the international airport.

183 (2) "Alcoholic beverage" means the following as the term is defined in this section:

184 (a) beer;

185 (b) flavored malt beverage; and

186 (c) liquor, which [~~on or after October 1, 2008;~~] includes a flavored malt beverage.

187 (3) (a) "Alcoholic product" means a product that:

188 (i) contains at least .5% of alcohol by volume; and

189 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
190 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
191 in an amount greater than the amount prescribed in Subsection (3)(a)(i).

192 (b) "Alcoholic product" does not include any of the following common items that
193 otherwise come within the definition of an alcoholic product:

194 (i) except as provided in Subsection (3)(c), extract;

195 (ii) vinegar;

196 (iii) cider;

197 (iv) essence;

198 (v) tincture;

199 (vi) food preparation; or

200 (vii) an over-the-counter drug or medicine.

201 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
202 product when it is used as a flavoring in the manufacturing of an alcoholic product.

203 (4) (a) [~~"Bar"~~] Except as provided in Subsection (4)(b), "bar" means a counter or
204 similar structure:

205 [~~(a)~~] (i) at which an alcoholic beverage or an alcoholic product is:

206 [~~(i)~~] (A) stored; or

207 [~~(ii)~~] (B) dispensed; or

208 [~~(b)~~] (ii) from which an alcoholic beverage is served.

209 (b) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part
210 3, Limited Restaurant Licenses, "bar structure" means a surface or structure on the premises of
211 a restaurant if on or at any place of the surface or structure an alcoholic beverage or alcoholic

212 product is:

213 (i) stored; or

214 (ii) dispensed.

215 (5) (a) Subject to Subsection (5)(d), "beer" means a product that:

216 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
217 volume or 3.2% by weight; and

218 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

219 (b) Beer may or may not contain hops or other vegetable products.

220 (c) Beer includes a product that:

221 (i) contains alcohol in the percentages described in Subsection (5)(a); and

222 (ii) is referred to as:

223 (A) beer;

224 (B) ale;

225 (C) porter;

226 (D) stout;

227 (E) lager; or

228 (F) a malt or malted beverage.

229 (d) [~~On or after October 1, 2008, "beer"~~] "Beer" does not include a flavored malt
230 beverage.

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

232 (i) engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for
233 consumption on or off the business premises; and

234 (ii) licensed to sell beer by:

235 (A) the commission;

236 (B) a local authority; or

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

238 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
239 beer to a patron for consumption off the beer retailer's premises.

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

241 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
242 patron for consumption on the beer retailer's premises, regardless of whether the business sells

243 beer for consumption off the beer retailer's premises.

244 (7) "Billboard" means a public display used to advertise including:

245 (a) a light device;

246 (b) a painting;

247 (c) a drawing;

248 (d) a poster;

249 (e) a sign;

250 (f) a signboard; or

251 (g) a scoreboard.

252 (8) "Brewer" means a person engaged in manufacturing:

253 (a) beer;

254 (b) heavy beer; or

255 (c) a flavored malt beverage.

256 (9) "Cash bar" means the service of an alcoholic beverage:

257 (a) at:

258 (i) a banquet; or

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

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

261 beverage.

262 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by

263 a bus company to a group of persons pursuant to a common purpose:

264 (a) under a single contract;

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

266 (c) for the purpose of giving the group of persons the exclusive use of the passenger

267 bus, coach, or other motor vehicle and a driver to travel together to one or more specified

268 destinations.

269 (11) "Church" means a building:

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

271 (b) in which religious services are held;

272 (c) with which clergy is associated; and

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

274 (12) [~~"Club" and "private club"~~] "Club licensee" means [~~any of the following organized~~
275 ~~primarily for the benefit of its members:~~] a person licensed under Chapter 5, Club Licenses.

276 [~~(a) a social club;~~]

277 [~~(b) a recreational association;~~]

278 [~~(c) a fraternal association;~~]

279 [~~(d) an athletic association; or~~]

280 [~~(e) a kindred association.~~]

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

282 (14) "Community location" means:

283 (a) a public or private school;

284 (b) a church;

285 (c) a public library;

286 (d) a public playground; or

287 (e) a public park.

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

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

290 (b) if the commission does not know who is the governing body of a community
291 location, a person who appears to the commission to have been given on behalf of the
292 community location authority to prohibit an activity at the community location.

293 (16) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part
294 3, Limited Restaurant Licenses:

295 (a) Subject to Subsection (16)(b), "counter" means a surface or structure in a dining
296 area of a restaurant where seating is provided to a patron for service of food.

297 (b) "Counter" does not include a surface or structure if on or at any point of the surface
298 or structure an alcoholic beverage or alcoholic product is:

299 (i) stored; or

300 (ii) dispensed.

301 [~~(16)~~] (17) "Department" means the Department of Alcoholic Beverage Control.

302 [~~(17)~~] (18) "Disciplinary proceeding" means an adjudicative proceeding permitted
303 under this title:

304 (a) against:

- 305 (i) a permittee;
- 306 (ii) a licensee;
- 307 (iii) a manufacturer;
- 308 (iv) a supplier;
- 309 (v) an importer;
- 310 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

311 or

- 312 (vii) an officer, employee, or agent of:
 - 313 (A) a person listed in Subsections [~~(17)~~] (18)(a)(i) through (vi); or
 - 314 (B) a package agent; and
 - 315 (b) that is brought on the basis of a violation of this title.

316 [~~(18)~~] (19) "Director," unless the context requires otherwise, means the director
317 appointed under Section 32A-1-108.

318 (20) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part
319 3, Limited Restaurant Licenses, "dispense" means:

- 320 (a) drawing of an alcoholic beverage or alcoholic product:
 - 321 (i) from an area where it is stored; or
 - 322 (ii) as provided in Subsection 32A-4-106(7)(e)(ii)(B) or 32A-4-307(7)(e)(ii)(B); and
 - 323 (b) using the alcoholic beverage or alcoholic product described in Subsection (20)(a)
324 on the premises of the restaurant to mix or prepare an alcoholic beverage for service to a patron
325 of the restaurant.

326 [~~(19)~~] (21) "Distressed merchandise" means an alcoholic beverage in the possession of
327 the department that is saleable, but for some reason is unappealing to the public.

328 [~~(20)~~] (22) "Flavored malt beverage" means a beverage:

- 329 (a) that contains at least .5% alcohol by volume;
- 330 (b) that is treated by processing, filtration, or another method of manufacture that is not
331 generally recognized as a traditional process in the production of a beer as described in 27
332 C.F.R. Sec. 25.55;

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

335 (d) (i) for which the producer is required to file a formula for approval with the United

336 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

338 [~~(21)~~] (23) "Guest" means ~~[a person accompanied by an active member or visitor of a~~
339 ~~club who enjoys only those privileges derived from the host for the duration of the visit to the~~
340 ~~club]~~ an individual who meets the requirements of Subsection 32A-5-107(1)(i) or (j).

341 [~~(22)~~] (24) (a) "Heavy beer" means a product that:

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

343 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

345 [~~(23)~~] (25) "Hosted bar" means the service of an alcoholic beverage:

346 (a) without charge; and

347 (b) at a:

348 (i) banquet; or

349 (ii) privately hosted event.

350 [~~(24)~~] (26) "Identification card" means an identification card issued under Title 53,
351 Chapter 3, Part 8, Identification Card Act.

352 [~~(25)~~] (27) "Interdicted person" means a person to whom the sale, gift, or provision of
353 an alcoholic beverage is prohibited by:

354 (a) law; or

355 (b) court order.

356 [~~(26)~~] (28) "Intoxicated" means that to a degree that is unlawful under Section
357 76-9-701 a person is under the influence of:

358 (a) an alcoholic beverage;

359 (b) a controlled substance;

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

361 (d) a combination of Subsections (26)(a) through (c).

362 [~~(27)~~] (29) "Licensee" means a person [~~issued~~] granted a license by the commission to
363 sell, manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
364 controlled by the person.

365 [~~(28)~~] (30) "Limousine" means a motor vehicle licensed by the state or a local
366 authority, other than a bus or taxicab:

367 (a) in which the driver and a passenger are separated by a partition, glass, or other
368 barrier; and

369 (b) that is provided by a company to one or more individuals at a fixed charge in
370 accordance with the company's tariff for the purpose of giving the one or more individuals the
371 exclusive use of the limousine and a driver to travel to one or more specified destinations.

372 ~~[(29)]~~ (31) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,
373 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,
374 vinous, or fermented, or other drink, or drinkable liquid that:

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

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

377 (ii) ~~[On or after October 1, 2008, "liquor"]~~ "Liquor" includes a flavored malt beverage.

378 (b) "Liquor" does not include a beverage defined as a beer.

379 ~~[(30)]~~ (32) "Local authority" means:

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

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

384 ~~[(31)]~~ (33) "Manufacture" means to distill, brew, rectify, mix, compound, process,
385 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
386 others.

387 ~~[(32)]~~ (34) "Member" means ~~[a person]~~ an individual who, after paying regular dues,
388 has full privileges of ~~[a]~~ an equity club licensee or fraternal club ~~[under this title]~~ licensee, as
389 defined in Section 32A-5-101.

390 ~~[(33)]~~ (35) (a) "Military installation" means a base, air field, camp, post, station, yard,
391 center, or homeport facility for a ship:

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

393 (B) of the National Guard;

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

395 (iii) including a leased facility.

396 (b) "Military installation" does not include a facility used primarily for:

397 (i) civil works;

398 (ii) a rivers and harbors project; or

399 (iii) a flood control project.

400 [~~(34)~~] (36) "Minor" means an individual under the age of 21 years.

401 [~~(35)~~] (37) "Nude," "nudity," or "state of nudity" means:

402 (a) the appearance of:

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

404 (ii) a human genital;

405 (iii) a human pubic area; or

406 (iv) a human anus; or

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

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

409 (ii) a human genital;

410 (iii) a human pubic area; or

411 (iv) a human anus.

412 [~~(36)~~] (38) "Outlet" means a location other than a state store or package agency where
413 an alcoholic beverage is sold pursuant to a license [~~issued~~] granted by the commission.

414 [~~(37)~~] (39) "Package" means any of the following containing liquor:

415 (a) a container;

416 (b) a bottle;

417 (c) a vessel; or

418 (d) other receptacle.

419 [~~(38)~~] (40) "Package agency" means a retail liquor location operated:

420 (a) under a contractual agreement with the department; and

421 (b) by a person:

422 (i) other than the state; and

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

425 [~~(39)~~] (41) "Package agent" means a person permitted by the commission to operate a
426 package agency pursuant to a contractual agreement with the department to sell liquor from
427 premises that the package agent shall provide and maintain.

428 [~~(40)~~] (42) "Permittee" means a person issued a permit by the commission to perform

429 an act or exercise a privilege as specifically granted in the permit.

430 [~~(41)~~] (43) "Person" means an individual, partnership, firm, corporation, limited
431 liability company, association, business trust, or other form of business enterprise, including a
432 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
433 more limited meaning is disclosed by the context.

434 [~~(42)~~] (44) "Premises" means a building, enclosure, room, or equipment used in
435 connection with the sale, storage, service, manufacture, distribution, or consumption of an
436 alcoholic product, unless otherwise defined in this title or in the rules adopted by the
437 commission.

438 [~~(43)~~] (45) "Prescription" means a writing in legal form, signed by a physician or
439 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

440 [~~(44)~~] (46) (a) "Privately hosted event" or "private social function" means a specific
441 social, business, or recreational event:

442 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
443 group; and

444 (ii) that is limited in attendance to people who are specifically designated and their
445 guests.

446 (b) "Privately hosted event" and "private social function" does not include an event to
447 which the general public is invited, whether for an admission fee or not.

448 [~~(45)~~] (47) (a) "Proof of age" means:

449 (i) an identification card;

450 (ii) an identification that:

451 (A) is substantially similar to an identification card;

452 (B) is issued in accordance with the laws of a state other than Utah in which the
453 identification is issued;

454 (C) includes date of birth; and

455 (D) has a picture affixed;

456 (iii) a valid driver license certificate that:

457 (A) includes date of birth;

458 (B) has a picture affixed; and

459 (C) is issued:

460 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
461 (II) in accordance with the laws of the state in which it is issued;
462 (iv) a military identification card that:
463 (A) includes date of birth; and
464 (B) has a picture affixed; or
465 (v) a valid passport.
466 (b) "Proof of age" does not include a driving privilege card issued in accordance with
467 Section 53-3-207.

468 [~~46~~] (48) (a) "Public building" means a building or permanent structure owned or
469 leased by the state, a county, or local government entity that is used for:

- 470 (i) public education;
- 471 (ii) transacting public business; or
- 472 (iii) regularly conducting government activities.

473 (b) "Public building" does not mean or refer to a building owned by the state or a
474 county or local government entity when the building is used by a person, in whole or in part,
475 for a proprietary function.

476 [~~47~~] (49) "Representative" means an individual who is compensated by salary,
477 commission, or other means for representing and selling an alcoholic beverage product of a
478 manufacturer, supplier, or importer of liquor including:

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

482 [~~48~~] (50) "Residence" means a person's principal place of abode within Utah.

483 [~~49~~] (51) "Restaurant" means a business establishment:

- 484 (a) where a variety of foods [~~is~~] are prepared and complete meals are served to the
485 general public;
- 486 (b) located on a premises having adequate culinary fixtures for food preparation and
487 dining accommodations; and
- 488 (c) that is engaged primarily in serving meals to the general public.

489 [~~50~~] (52) "Retailer" means a person engaged in the sale or distribution of an alcoholic
490 beverage to a consumer.

491 [~~(51)~~] (53) (a) "Sample" includes:

492 (i) a department sample; and

493 (ii) an industry representative sample.

494 (b) "Department sample" means liquor that is placed in the possession of the

495 department for testing, analysis, and sampling including:

496 (i) wine;

497 (ii) heavy beer; or

498 (iii) [~~on or after October 1, 2008,~~] a flavored malt beverage.

499 (c) "Industry representative sample" means liquor that is placed in the possession of the
500 department:

501 (i) for testing, analysis, and sampling by a local industry representative on the premises
502 of the department to educate the local industry representative of the quality and characteristics
503 of the product; and

504 (ii) including:

505 (A) wine;

506 (B) heavy beer; or

507 (C) [~~on or after October 1, 2008,~~] a flavored malt beverage.

508 [~~(52)~~] (54) (a) "School" means a building used primarily for the general education of
509 minors.

510 (b) "School" does not include:

511 (i) a nursery school;

512 (ii) an infant day care center; or

513 (iii) a trade or technical school.

514 [~~(53)~~] (55) "Sell," "sale," and "to sell" means a transaction, exchange, or barter
515 whereby, for consideration, an alcoholic beverage is either directly or indirectly transferred,
516 solicited, ordered, delivered for value, or by a means or under a pretext is promised or
517 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
518 employee, unless otherwise defined in this title or the rules made by the commission.

519 [~~(54)~~] (56) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
520 which opaque clothing covers no more than:

521 (a) the nipple and areola of the female human breast in a shape and color other than the

- 522 natural shape and color of the nipple and areola; and
- 523 (b) the human genitals, pubic area, and anus:
- 524 (i) with no less than the following at its widest point:
- 525 (A) four inches coverage width in the front of the human body; and
- 526 (B) five inches coverage width in the back of the human body; and
- 527 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 528 ~~[(55)]~~ (57) "Sexually oriented entertainer" means a person who while in a state of
- 529 seminudity appears at or performs:
- 530 (a) for the entertainment of one or more patrons;
- 531 (b) on the premises of:
- 532 (i) a ~~[class D private]~~ social club licensee as defined in ~~[Subsection]~~ Section
- 533 32A-5-101~~[(3)]~~; or
- 534 (ii) a tavern;
- 535 (c) on behalf of or at the request of the licensee described in Subsection ~~[(55)]~~ (57)(b);
- 536 (d) on a contractual or voluntary basis; and
- 537 (e) whether or not the person is designated:
- 538 (i) an employee of the licensee described in Subsection ~~[(55)]~~ (57)(b);
- 539 (ii) an independent contractor of the licensee described in Subsection ~~[(55)]~~ (57)(b);
- 540 (iii) an agent of the licensee described in Subsection ~~[(55)]~~ (57)(b); or
- 541 (iv) otherwise of the licensee described in Subsection ~~[(55)]~~ (57)(b).
- 542 ~~[(56)]~~ (58) "Small brewer" means a brewer who manufactures less than 60,000 barrels
- 543 of beer, heavy beer, and flavored malt beverages per year.
- 544 ~~[(57)]~~ (59) (a) "Spirituous liquor" means liquor that is distilled.
- 545 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 546 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 547 ~~[(58) (a) "State label" means the official label designated by the commission affixed to~~
- 548 ~~a liquor container sold in the state.]~~
- 549 ~~[(b) "State label" includes the department identification mark and inventory control~~
- 550 ~~number.]~~
- 551 ~~[(59)]~~ (60) (a) "State store" means a facility for the sale of package liquor:
- 552 (i) located on premises owned or leased by the state; and

553 (ii) operated by a state employee.

554 (b) "State store" does not apply to a:

555 (i) licensee;

556 (ii) permittee; or

557 (iii) package agency.

558 (61) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part

559 3, Limited Restaurant Licenses:

560 (a) "Storage area" means an area on the premises of a restaurant where a licensee

561 stores an alcoholic beverage or alcoholic product.

562 (b) "Store" means to place or maintain in a location an alcoholic beverage or alcoholic

563 product from which a person draws to prepare an alcoholic beverage for service to a patron of

564 the restaurant, except as provided in Subsection 32A-4-106(7)(e)(ii)(B) or

565 32A-4-307(7)(e)(ii)(B).

566 ~~[(60)]~~ (62) "Supplier" means a person selling an alcoholic beverage to the department.

567 ~~[(61)]~~ (63) (a) "Tavern" means a business establishment that is:

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

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

571 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the

572 revenue of the sale of food, although food need not be sold in the establishment:

573 (i) a beer bar;

574 (ii) a parlor;

575 (iii) a lounge;

576 (iv) a cabaret; or

577 (v) a nightclub.

578 ~~[(62)]~~ (64) "Temporary domicile" means the principal place of abode within Utah of a

579 person who does not have a present intention to continue residency within Utah permanently or
580 indefinitely.

581 ~~[(63)]~~ (65) "Unsaleable liquor merchandise" means merchandise that:

582 (a) is unsaleable because the merchandise is:

583 (i) unlabeled;

- 584 (ii) leaky;
- 585 (iii) damaged;
- 586 (iv) difficult to open; or
- 587 (v) partly filled;
- 588 (b) is in a container:
 - 589 (i) having faded labels or defective caps or corks;
 - 590 (ii) in which the contents are:
 - 591 (A) cloudy;
 - 592 (B) spoiled; or
 - 593 (C) chemically determined to be impure; or
 - 594 (iii) that contains:
 - 595 (A) sediment; or
 - 596 (B) a foreign substance; or
 - 597 (c) is otherwise considered by the department as unfit for sale.

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

600 [(65)] (66) "Warehouser" means a person, other than a licensed manufacturer, engaged
601 in the importation for sale, storage, or distribution of liquor regardless of amount.

602 [(66)] (67) (a) "Wholesaler" means a person engaged in the importation for sale, or in
603 the sale of beer in wholesale or jobbing quantities to one or more retailers.

604 (b) Notwithstanding Subsection [(66)] (67)(a), "wholesaler" does not include a small
605 brewer selling beer manufactured by that brewer.

606 [(67)] (68) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the
607 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
608 another ingredient is added.

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

611 Section 5. Section **32A-1-107** is amended to read:

612 **32A-1-107. Powers and duties of the commission.**

613 (1) The commission shall:

- 614 (a) act as a general policymaking body on the subject of alcoholic product control;

- 615 (b) adopt and issue policies, directives, rules, and procedures;
- 616 (c) set policy by written rules that establish criteria and procedures for:
- 617 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates of~~
618 ~~approval, and package agencies~~] a permit, license, certificate of approval, or package agency;
- 619 (ii) controlling liquor merchandise inventory including:
- 620 (A) listing and delisting [~~products~~] a product;
- 621 (B) the procedures for testing a new [~~products~~] product;
- 622 (C) purchasing policy;
- 623 (D) turnover requirements for a regularly coded [~~products~~] product to be continued;
- 624 and
- 625 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- 626 (iii) determining the location of a state [~~stores, package agencies, and outlets~~] store,
627 package agency, or outlet;
- 628 (d) decide within the limits and under the conditions imposed by this title, the number
629 and location of state stores, package agencies, and outlets established in the state;
- 630 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
631 certificates of approval, and package agencies for the purchase, sale, storage, service,
632 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:
- 633 (i) a package [~~agencies~~] agency;
- 634 (ii) a restaurant [~~licenses~~] license;
- 635 (iii) an airport lounge [~~licenses~~] license;
- 636 (iv) a limited restaurant [~~licenses~~] license;
- 637 (v) an on-premise banquet [~~licenses~~] license;
- 638 (vi) [~~private~~] a club [~~licenses~~] license;
- 639 (vii) an on-premise beer retailer [~~licenses~~] license;
- 640 (viii) a temporary special event beer [~~permits~~] permit;
- 641 (ix) a special use [~~permits~~] permit;
- 642 (x) a single event [~~permits~~] permit;
- 643 (xi) a manufacturing [~~licenses~~] license;
- 644 (xii) a liquor warehousing [~~licenses~~] license;
- 645 (xiii) a beer wholesaling [~~licenses~~] license; and

- 646 (xiv) an out-of-state brewer [~~certificates~~] certificate of approval;
- 647 (f) fix prices at which [~~liquors are~~] liquor is sold that are the same at all state stores,
648 package agencies, and outlets;
- 649 (g) issue and distribute price lists showing the price to be paid by [~~purchasers~~] a
650 purchaser for each class, variety, or brand of liquor kept for sale by the department;
- 651 (h) (i) require the director to follow sound management principles; and
652 (ii) require periodic reporting from the director to ensure that:
653 (A) sound management principles are being followed; and
654 (B) policies established by the commission are being observed;
- 655 (i) (i) receive, consider, and act in a timely manner upon [~~all~~] the reports,
656 recommendations, and matters submitted by the director to the commission; and
657 (ii) do [~~all~~] the things necessary to support the department in properly performing the
658 department's duties and responsibilities;
- 659 (j) obtain temporarily and for special purposes the services of [~~experts and persons~~] an
660 expert or person engaged in the practice of a profession or who possess any needed skills,
661 talents, or abilities if:
662 (i) considered expedient; and
663 (ii) approved by the governor;
- 664 (k) prescribe the duties of a departmental [~~officials~~] official authorized to assist the
665 commission in issuing [~~permits, licenses, certificates of approval, and package agencies~~] a
666 permit, license, certificate of approval, or package agency under this title;
- 667 (l) prescribe, consistent with this title, the fees payable for:
668 (i) [~~permits, licenses, certificates of approval, and package agencies~~] a permit, license,
669 certificate of approval, or package agency issued under this title; or
670 (ii) anything done or permitted to be done under this title;
- 671 (m) prescribe the conduct, management, and equipment of [~~any~~] premises upon which
672 an alcoholic [~~beverages~~] beverage may be sold, consumed, served, or stored;
- 673 (n) make rules governing the credit terms of beer sales to retailers within the state;
- 674 (o) require that each of the following, where required in this title, display in a
675 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol
676 or drugs is a serious crime that is prosecuted aggressively in Utah.";

- 677 (i) a state store;
- 678 (ii) a permittee;
- 679 (iii) a licensee; and
- 680 (iv) a package agency; and
- 681 (p) subject to Subsection (4) and as provided in this title, impose fines against:
- 682 (i) a permittee, licensee, certificate holder, or package agent described in Subsection
- 683 (1)(e); or
- 684 (ii) ~~[any]~~ an officer, employee, or agent of a permittee, licensee, certificate holder, or
- 685 package agent described in Subsection (1)(p)(i).
- 686 (2) The power of the commission to do the following is plenary, except as otherwise
- 687 provided by this title, and not subject to review:
- 688 (a) establish a state ~~[stores]~~ store;
- 689 (b) create a package ~~[agencies]~~ agency;
- 690 (c) grant authority to operate a package ~~[agencies]~~ agency; and
- 691 (d) grant or deny ~~[permits, licenses, and certificates]~~ a permit, license, or certificate of
- 692 approval.
- 693 (3) The commission may appoint a qualified hearing ~~[examiners]~~ examiner to conduct
- 694 ~~[any]~~ a suspension or revocation ~~[hearings]~~ hearing required by law.
- 695 (4) (a) In ~~[any]~~ a case ~~[where]~~ when the commission is given the power to suspend
- 696 ~~[any]~~ a permit, license, certificate of approval, or package agency the commission may impose
- 697 a fine in addition to or in lieu of suspension.
- 698 (b) ~~[Fines]~~ A fine imposed may not exceed \$25,000 in the aggregate for:
- 699 (i) ~~[any]~~ a single Notice of Agency Action; or
- 700 (ii) a single action against a package agency.
- 701 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines
- 702 for each violation.
- 703 Section 6. Section **32A-1-109** is amended to read:
- 704 **32A-1-109. Powers and duties of the director.**
- 705 Subject to the powers and responsibilities vested in the commission by this title the
- 706 director shall:
- 707 (1) prepare and propose to the commission general policies, directives, rules, and

708 procedures governing the administrative activities of the department, and may submit other
709 recommendations to the commission as the director considers in the interest of [its] the
710 commission's or the department's business;

711 (2) within the general policies, directives, rules, and procedures of the commission[-];
712 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the
713 administrative activities of the department's business; and [~~promulgate~~]

714 (b) make internal department policies, directives, rules, and procedures relating to
715 department personnel matters, and the day-to-day operation of the department consistent with
716 those of the commission;

717 (3) (a) appoint or employ personnel as considered necessary in the administration of
718 this title [~~and~~];

719 (b) prescribe the conditions of [~~their~~] employment[~~, define their~~] for the personnel
720 described in Subsection (3)(a);

721 (c) define the respective duties and powers[~~, fix their~~] for the personnel described in
722 Subsection (3)(a);

723 (d) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
724 Management Act, for the personnel described in Subsection (3)(a); and

725 (e) designate those employees required to give [~~bonds~~] a bond and specify the bond
726 amounts;

727 (4) establish and secure adherence to a system of reports, controls, and performance in
728 [~~all~~] matters relating to personnel, security, department property management, and operation of
729 [~~department offices, warehouses, state stores, package agencies, and licensees~~];

730 (a) a department office;

731 (b) a warehouse;

732 (c) a state store;

733 (d) a package agency; and

734 (e) a licensee;

735 (5) within the policies, directives, rules, and procedures approved by the commission
736 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,
737 transportation, and delivery of an alcoholic [~~products~~] product;

738 (6) prepare for commission approval:

- 739 (a) recommendations regarding the location, establishment, relocation, and closure of
740 ~~[state stores and package agencies]~~ a state store or package agency;
- 741 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation
742 of ~~[licenses and permits]~~ a license or permit;
- 743 (c) an annual ~~[budgets]~~ budget, proposed legislation, and reports as required by law and
744 sound business principles;
- 745 (d) plans for reorganizing divisions of the department and ~~[their]~~ the functions of the
746 divisions;
- 747 (e) manuals containing ~~[all]~~ commission and department policies, directives, rules, and
748 procedures;
- 749 (f) an inventory control system;
- 750 (g) any other ~~[reports and recommendations]~~ report or recommendation as may be
751 requested by the commission;
- 752 (h) rules governing the credit terms of the sale of beer ~~[sales]~~ to a beer retailer
753 ~~[licensees]~~ licensee;
- 754 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered
755 dispensing ~~[systems]~~ system;
- 756 (j) rules governing the posting of a list of types and brand names of liquor ~~[being]~~
757 served through a calibrated metered dispensing ~~[systems]~~ system;
- 758 (k) price lists issued and distributed showing the price to be paid for each class, variety,
759 or brand of liquor kept for sale at a state ~~[stores, package agencies, and outlets]~~ store, package
760 agency, or outlet;
- 761 (l) directives prescribing the books of account kept by the department and by a state
762 ~~[stores, package agencies, and outlets;]~~ store, package agency, or outlet; and
763 ~~[(m) an official state label and the manner in which the label shall be affixed to every~~
764 ~~package of liquor sold under this title; and]~~
- 765 ~~[(n)]~~ (m) a policy prescribing the manner of giving and serving ~~[notices]~~ a notice
766 required by this title or rules made under this title;
- 767 (7) make available through the department to any person, upon request, a copy of ~~[any]~~
768 a policy or directive ~~[promulgated]~~ made by the director;
- 769 ~~[(8) adopt internal departmental policies, directives, rules, and procedures relating to~~

770 ~~department personnel matters and the day-to-day operation of the department that are~~
 771 ~~consistent with those of the commission;]~~

772 [~~(9)~~] (8) keep a current copy of [~~the manuals containing~~] a manual that contains the
 773 rules and policies of the department and commission available for public inspection;

774 [~~(10)~~] (9) (a) after consultation with the governor, determine whether an alcoholic
 775 [~~products~~] product should not be sold, offered for sale, or otherwise furnished in an area of the
 776 state during a period of emergency that is proclaimed by the governor to exist in that area; and

777 (b) issue [~~any~~] a necessary public [~~announcements and directives~~] announcement or
 778 directive with respect to the determination described in Subsection [~~(10)~~] (9)(a); and

779 [~~(11)~~] (10) perform other duties required by the commission and by law.

780 Section 7. Section **32A-1-115** is amended to read:

781 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**

782 **-- Distribution.**

783 (1) As used in this section:

784 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
 785 Account created in this section.

786 (b) "Alcohol-related offense" means:

787 (i) a violation of:

788 (A) Section 41-6a-502; or

789 (B) an ordinance that complies with the requirements of:

790 (I) Subsection 41-6a-510(1); or

791 (II) Section 76-5-207; or

792 (ii) an offense involving the:

793 (A) illegal sale of alcohol;

794 (B) illegal distribution of alcohol;

795 (C) illegal transportation of alcohol;

796 (D) illegal possession of alcohol; or

797 (E) illegal consumption of alcohol.

798 (c) "Annual conviction time period" means the time period that:

799 (i) begins on July 1 and ends on June 30; and

800 (ii) immediately precedes the fiscal year for which an appropriation under this section

801 is made.

802 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence
803 Coordinating Council created in Section 63M-7-301.

804 (e) "Municipality" means:

805 (i) a city; or

806 (ii) a town.

807 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
808 Beverage Enforcement and Treatment Restricted Account."

809 (b) The account shall be funded from:

810 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;

811 (ii) any appropriations made to the account by the Legislature; and

812 (iii) interest described in Subsection (2)(c).

813 (c) Interest earned on the account shall be deposited into the account.

814 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
815 revenues in the account shall be used for statewide public purposes including promoting the
816 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
817 alcohol consumption by minors by funding exclusively programs or projects related to
818 prevention, treatment, detection, prosecution, and control of violations of this title and other
819 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

820 (ii) The portion distributed under this section to counties may also be used for the
821 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
822 contributing factor.

823 (iii) ~~Any~~ A municipality or county entitled to receive ~~funds~~ monies shall use the
824 ~~funds~~ monies exclusively as required by this Subsection (2)(d).

825 (iv) The appropriations provided for under Subsection (3) are:

826 (A) intended to supplement the budget of the appropriate agencies of each municipality
827 and county within the state to enable the municipalities and counties to more effectively fund
828 the programs and projects described in this Subsection (2)(d); and

829 (B) not intended to replace ~~funds~~ monies that would otherwise be allocated for the
830 programs and projects in this Subsection (2)(d).

831 (3) (a) The revenues deposited into the account shall be distributed to municipalities

832 and counties:

833 (i) to the extent appropriated by the Legislature except that the Legislature shall
834 appropriate each fiscal year an amount equal to at least the amount deposited in the account in
835 accordance with Section 59-15-109; and

836 (ii) as provided in this Subsection (3).

837 (b) The amount appropriated from the account shall be distributed as follows:

838 (i) 25% to municipalities and counties based upon the percentage of the state
839 population residing in each municipality and county;

840 (ii) 30% to municipalities and counties based upon each municipality's and county's
841 percentage of the statewide convictions for all alcohol-related offenses;

842 (iii) 20% to municipalities and counties based upon the percentage of all state stores,
843 package agencies, liquor licensees, and beer licensees in the state that are located in each
844 municipality and county; and

845 (iv) 25% to the counties for confinement and treatment purposes authorized by this
846 section based upon the percentage of the state population located in each county.

847 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a
848 law enforcement agency may not receive monies under this section.

849 (ii) The State Tax Commission:

850 (A) may not distribute the monies the municipality would receive but for the
851 municipality not having a law enforcement agency to that municipality; and

852 (B) shall distribute the monies that the municipality would have received but for it not
853 having a law enforcement agency to the county in which the municipality is located for use by
854 the county in accordance with this section.

855 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds
856 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use
857 the monies that the municipality is otherwise eligible to receive in accordance with this section,
858 the coordinating council may direct the State Tax Commission to distribute the money to the
859 municipality.

860 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax
861 Commission shall annually:

862 (a) for an annual conviction time period:

- 863 (i) multiply by two the total number of convictions in the state obtained during the
864 annual conviction time period for violation of:
- 865 (A) Section 41-6a-502; or
866 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
867 Section 76-5-207; and
- 868 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions
869 obtained during the annual conviction time period for all alcohol-related offenses other than the
870 alcohol-related offenses described in Subsection (4)(a)(i);
- 871 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
872 obtained in Subsection (4)(a); and
- 873 (c) multiply the amount calculated under Subsection (4)(b), by the number of
874 convictions obtained in each municipality and county during the annual conviction time period
875 for alcohol-related offenses.
- 876 (5) For purposes of this section:
- 877 (a) the number of state stores, package agencies, and licensees located within the limits
878 of each municipality and county:
- 879 (i) is the number determined by the department to be so located;
880 (ii) includes all:
- 881 (A) ~~[private clubs]~~ club licenses;
882 (B) restaurants;
883 (C) limited restaurants;
884 (D) on-premise banquet licenses;
885 (E) airport lounges;
886 (F) package agencies; and
887 (G) state stores; and
- 888 (iii) does not include on-premise beer retailer licensees;
- 889 (b) the number of state stores, package agencies, and licensees in a county consists only
890 of that number located within unincorporated areas of the county;
- 891 (c) population figures shall be determined according to the most current population
892 estimates prepared by the Utah Population Estimates Committee;
- 893 (d) a county's population figure for the 25% distribution to municipalities and counties

894 under Subsection (3)(b)(i) shall be determined only with reference to the population in the
895 unincorporated areas of the county;

896 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to
897 counties only shall be determined with reference to the total population in the county, including
898 that of municipalities;

899 (f) a conviction occurs in the municipality or county that actually prosecutes the
900 offense to judgment; and

901 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
902 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
903 offense.

904 (6) By not later than September 1 each year:

905 (a) the state court administrator shall certify to the State Tax Commission the number
906 of convictions obtained for alcohol-related offenses in each municipality or county in the state
907 during the annual conviction time period; and

908 (b) the coordinating council shall notify the State Tax Commission of any municipality
909 that does not have a law enforcement agency.

910 (7) By not later than December 1 of each year, the coordinating council shall notify the
911 State Tax Commission for the fiscal year of appropriation of:

912 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);

913 (b) any county that may receive a distribution allocated to a municipality described in
914 Subsection (3)(c)(ii);

915 (c) any municipality or county that may not receive a distribution because the
916 coordinating council has suspended the payment under Subsection (10)(a)(i); and

917 (d) any municipality or county that receives a distribution because the suspension of
918 payment has been cancelled under Subsection (10)(a)(ii).

919 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
920 Commission shall annually distribute to each municipality and county the portion of the
921 appropriation that the municipality or county is eligible to receive under this section, except for
922 any municipality or county that the coordinating council notifies the State Tax Commission in
923 accordance with Subsection (7) may not receive a distribution in that fiscal year.

924 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and

925 counties in applying for distributions under this section.

926 (ii) The forms described in this Subsection (8) may require the submission of
927 information the State Tax Commission considers necessary to enable the State Tax
928 Commission to comply with this section.

929 (9) A municipality or county that receives any monies under this section during a fiscal
930 year shall by no later than October 1 following the fiscal year:

931 (a) report to the coordinating council:

932 (i) the programs or projects of the municipality or county that receive monies under
933 this section;

934 (ii) if the monies for programs or projects were exclusively used as required by
935 Subsection (2)(d);

936 (iii) indicators of whether the programs or projects that receive monies under this
937 section are effective; and

938 (iv) if [any] monies received under this section were not expended by the municipality
939 or county; and

940 (b) provide the coordinating council a statement signed by the chief executive officer
941 of the county or municipality attesting that the monies received under this section were used in
942 addition to [any] monies appropriated or otherwise available for the county's or municipality's
943 law enforcement and were not used to supplant those monies.

944 (10) (a) The coordinating council may, by a majority vote:

945 (i) suspend future payments under Subsection (8) to a municipality or county that:

946 (A) does not file a report that meets the requirements of Subsection (9); or

947 (B) the coordinating council finds does not use the monies as required by Subsection
948 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and

949 (ii) cancel a suspension under Subsection (10)(a)(i).

950 (b) The State Tax Commission shall:

951 (i) retain monies that a municipality or county does not receive under Subsection
952 (10)(a); and

953 (ii) notify the coordinating council of the balance of retained monies under this
954 Subsection (10)(b) after the annual distribution under Subsection (8).

955 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council

956 shall award the balance of retained monies under Subsection (10)(b):

957 (i) as prioritized by majority vote of the coordinating council; and

958 (ii) as grants to:

959 (A) a county;

960 (B) a municipality;

961 (C) the Department of Alcoholic Beverage Control;

962 (D) the Department of Human Services;

963 (E) the Department of Public Safety; or

964 (F) the Utah State Office of Education.

965 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
966 council shall notify the State Tax Commission of [~~any~~] grants awarded under this Subsection
967 (11).

968 (c) The State Tax Commission shall make payments of [~~grants~~] a grant:

969 (i) upon receiving notice as provided under Subsection (11)(b); and

970 (ii) by not later than June 30 of the fiscal year of the appropriation.

971 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies
972 exclusively for programs or projects described in Subsection (2)(d).

973 Section 8. Section **32A-1-119** is amended to read:

974 **32A-1-119. Disciplinary proceedings -- Procedure.**

975 (1) As used in Subsection (4), "final adjudication" means an adjudication for which a
976 final unappealable judgment or order is issued.

977 (2) (a) Subject to Section 32A-1-119.5, the following may conduct an adjudicative
978 proceeding to inquire into a matter necessary and proper for the administration of this title and
979 rules adopted under this title:

980 (i) the commission;

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

983 (iii) the director; and

984 (iv) the department.

985 (b) Except as provided in this section or Section 32A-3-106, the following shall
986 comply with the procedures and requirements of Title 63G, Chapter 4, Administrative

987 Procedures Act, in an adjudicative proceeding:

988 (i) the commission;

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

990 (iii) the director; and

991 (iv) the department.

992 (c) Except where otherwise provided by law, an adjudicative proceeding before the
993 commission or a hearing examiner appointed by the commission shall be:

994 (i) video or audio recorded; and

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

997 (d) A person listed in Subsection (2)(a) shall conduct an adjudicative proceeding
998 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State
999 Personnel Management Act.

1000 (e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be
1001 conducted in accordance with rules, policies, and procedures made by the commission,
1002 director, or department.

1003 (3) (a) Subject to Section 32A-1-119.5, a disciplinary proceeding shall be conducted
1004 under the authority of the commission, which is responsible for rendering a final decision and
1005 order on a disciplinary matter.

1006 (b) (i) Nothing in this section precludes the commission from appointing a necessary
1007 officer, including a hearing examiner, from within or without the department, to administer the
1008 disciplinary proceeding process.

1009 (ii) A hearing examiner appointed by the commission:

1010 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

1011 (B) shall submit to the commission a report including:

1012 (I) findings of fact determined on the basis of a preponderance of the evidence
1013 presented at the hearing;

1014 (II) conclusions of law; and

1015 (III) recommendations.

1016 (c) Nothing in this section precludes the commission, after the commission renders its
1017 final decision and order, from having the director prepare, issue, and cause to be served on the

1018 parties the final written order on behalf of the commission.

1019 (4) Subject to Section 32A-1-119.5:

1020 (a) The department may initiate a disciplinary proceeding described in Subsection

1021 (4)(b) if the department receives:

1022 (i) a report from a government agency, peace officer, examiner, or investigator alleging
1023 that a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) violated this title or
1024 the rules of the commission;

1025 (ii) a final adjudication of criminal liability against a person listed in Subsections
1026 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based on an alleged violation of this title; or

1027 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
1028 Liability, against a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based
1029 on an alleged violation of this title.

1030 (b) The department may initiate a disciplinary proceeding if the department receives an
1031 item listed in Subsection (4)(a) to determine:

1032 (i) whether a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii)
1033 violated this title or rules of the commission; and

1034 (ii) if a violation is found, the appropriate sanction to be imposed.

1035 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:

1036 (i) if required by law;

1037 (ii) before revoking or suspending a permit, license, or certificate of approval issued
1038 under this title; or

1039 (iii) before imposing a fine against a person listed in Subsections
1040 32A-1-105[~~(17)~~](18)(a)(i) through (vii).

1041 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
1042 hearing after receiving proper notice is an admission of the charged violation.

1043 (c) The validity of a disciplinary proceeding is not affected by the failure of a person to
1044 attend or remain in attendance.

1045 (d) The commission or an appointed hearing examiner shall preside over a disciplinary
1046 proceeding hearing.

1047 (e) A disciplinary proceeding hearing may be closed only after the commission or
1048 hearing examiner makes a written finding that the public interest in an open hearing is clearly

1049 outweighed by factors enumerated in the closure order.

1050 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
1051 hearing may:

1052 (A) administer oaths or affirmations;

1053 (B) take evidence;

1054 (C) take a deposition within or without this state; and

1055 (D) require by subpoena from a place within this state:

1056 (I) the testimony of a person at a hearing; and

1057 (II) the production of a book, record, paper, contract, agreement, document, or other
1058 evidence considered relevant to the inquiry.

1059 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
1060 produce a book, paper, document, or tangible thing as required in the subpoena.

1061 (iii) A witness subpoenaed or called to testify or produce evidence who claims a
1062 privilege against self-incrimination may not be compelled to testify, but the commission or the
1063 hearing examiner shall file a written report with the county attorney or district attorney in the
1064 jurisdiction where the privilege is claimed or where the witness resides setting forth the
1065 circumstance of the claimed privilege.

1066 (iv) (A) A person is not excused from obeying a subpoena without just cause.

1067 (B) A district court within the judicial district in which a person alleged to be guilty of
1068 willful contempt of court or refusal to obey a subpoena is found or resides, upon application by
1069 the party issuing the subpoena, may issue an order requiring the person to:

1070 (I) appear before the issuing party; and

1071 (II) (Aa) produce documentary evidence if so ordered; or

1072 (Bb) give evidence regarding the matter in question.

1073 (C) Failure to obey an order of the court may be punished by the court as contempt.

1074 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing
1075 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

1076 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
1077 recommend a penalty more severe than that initially sought by the department in the notice of
1078 agency action.

1079 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)

1080 shall be served upon the respective parties.

1081 (iv) The respondent and the department shall be given reasonable opportunity to file a
1082 written objection to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
1083 before final commission action.

1084 (h) In a case heard by the commission, it shall issue its final decision and order in
1085 accordance with Subsection (3).

1086 (6) (a) The commission shall:

1087 (i) render a final decision and order on a disciplinary action; and

1088 (ii) cause its final order to be prepared in writing, issued, and served on all parties.

1089 (b) An order of the commission is considered final on the date the order becomes
1090 effective.

1091 (c) If the commission is satisfied that a person listed in Subsections
1092 32A-1-105~~(17)~~(18)(a)(i) through (vii) violated this title or the commission's rules, in
1093 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

1094 (i) suspend or revoke the permit, license, or certificate of approval;

1095 (ii) impose a fine against a person listed in Subsections 32A-1-105~~(17)~~(18)(a)(i)
1096 through (vii);

1097 (iii) assess the administrative costs of a disciplinary proceeding to the permittee, the
1098 licensee, or certificate holder; or

1099 (iv) take a combination of actions described in Subsections (6)(c)(i) through (iii).

1100 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
1101 32A-1-107(1)(p) and (4).

1102 (e) (i) If a permit or license is suspended under this Subsection (6), the permittee or
1103 licensee shall prominently post a sign provided by the department:

1104 (A) during the suspension; and

1105 (B) at the entrance of the premises of the permittee or licensee.

1106 (ii) The sign required by this Subsection (6)(e) shall:

1107 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
1108 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
1109 sold, served, furnished, or consumed on these premises during the period of suspension."; and

1110 (B) include the dates of the suspension period.

1111 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
1112 to be posted under this Subsection (6)(e) during the suspension period.

1113 (f) If a permit or license is revoked, the commission may order the revocation of a
1114 compliance bond posted by the permittee or licensee.

1115 (g) A permittee or licensee whose permit or license is revoked may not reapply for a
1116 permit or license under this title for three years from the date on which the permit or license is
1117 revoked.

1118 (h) The commission shall transfer all costs assessed into the General Fund in
1119 accordance with Section 32A-1-113.

1120 (7) Subject to Section 32A-1-119.5:

1121 (a) In addition to an action taken against a permittee, licensee, or certificate holder
1122 under this section, the department may initiate disciplinary action against an officer, employee,
1123 or agent of a permittee, licensee, or certificate holder.

1124 (b) If an officer, employee, or agent is found to have violated this title, the commission
1125 may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing,
1126 wholesaling, warehousing, or handling an alcoholic beverage in the course of acting as an
1127 officer, employee, or agent with a permittee, licensee, or certificate holder under this title for a
1128 period determined by the commission.

1129 (8) Subject to Section 32A-1-119.5:

1130 (a) The department may initiate a disciplinary proceeding for an alleged violation of
1131 this title or the rules of the commission against:

1132 (i) a manufacturer, supplier, or importer of an alcoholic beverage; or

1133 (ii) an officer, employee, agent, or representative of a person listed in Subsection
1134 (8)(a)(i).

1135 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
1136 commission may, in addition to other penalties prescribed by this title, order:

1137 (A) the removal of the manufacturer's, supplier's, or importer's one or more products
1138 from the department's sales list; and

1139 (B) a suspension of the department's purchase of the one or more products described in
1140 Subsection (8)(b)(i)(A) for a period determined by the commission.

1141 (ii) The commission may take the action described in Subsection (8)(b)(i) if:

1142 (A) a manufacturer, supplier, or importer of liquor, wine, heavy beer, or a flavored malt
1143 beverage, or its officer, employee, agent, or representative violates this title; and

1144 (B) the manufacturer, supplier, or importer:

1145 (I) directly commits the violation; or

1146 (II) solicits, requests, commands, encourages, or intentionally aids another to engage in
1147 the violation.

1148 (9) Subject to Section 32A-1-119.5:

1149 (a) The department may initiate a disciplinary proceeding against a brewer holding a
1150 certificate of approval under Section 32A-8-101 for an alleged violation of this title or the rules
1151 of the commission.

1152 (b) If the commission makes a finding that the brewer holding a certificate of approval
1153 violates this title or rules of the commission, the commission may take an action against the
1154 brewer holding a certificate of approval that the commission could take against a licensee
1155 including:

1156 (i) suspension or revocation of the certificate of approval; and

1157 (ii) imposition of a fine.

1158 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
1159 the commission or a hearing examiner appointed by the commission shall proceed formally in
1160 accordance with Sections 63G-4-204 through 63G-4-209 in a case where:

1161 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,
1162 and welfare;

1163 (ii) the alleged violation involves:

1164 (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;

1165 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
1166 Entertainment Act;

1167 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
1168 of the respondent;

1169 (D) interfering or refusing to cooperate with:

1170 (I) an authorized official of the department or the state in the discharge of the official's
1171 duties in relation to the enforcement of this title; or

1172 (II) a peace officer in the discharge of the peace officer's duties in relation to the

1173 enforcement of this title;

1174 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

1175 (F) unlawful importation of an alcoholic product; or

1176 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
1177 32A-12-601(2), to a person other than the department or a military installation, except to the
1178 extent permitted by this title; or

1179 (iii) the department determines to seek in a disciplinary proceeding hearing:

1180 (A) an administrative fine exceeding \$3,000;

1181 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

1182 or

1183 (C) a revocation of a license, permit, or certificate of approval.

1184 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
1185 Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).

1186 (11) Notwithstanding the other provisions of this title, the commission may not order a
1187 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1188 ordered on the basis of a violation:

1189 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1190 (b) if the violation is first investigated by a law enforcement officer, as defined in
1191 Section 53-13-103, who has not received training regarding the requirements of this title
1192 related to responsible alcoholic beverage sale or service.

1193 Section 9. Section **32A-1-119.5** is amended to read:

1194 **32A-1-119.5. Timing of reporting violations.**

1195 (1) As used in this section:

1196 (a) "Department compliance officer" means an individual who is:

1197 (i) an auditor or inspector; and

1198 (ii) employed by the department.

1199 (b) "Nondepartment enforcement agency" means an agency that:

1200 (i) (A) is a state agency other than the department; or

1201 (B) is an agency of a county, city, or town; and

1202 (ii) has a responsibility, as provided in another provision of this title, to enforce one or
1203 more provisions of this title.

1204 (c) "Nondepartment enforcement officer" means an individual who is:

1205 (i) a peace officer, examiner, or investigator; and

1206 (ii) employed by an agency described in Subsection (1)(b).

1207 (2) A disciplinary proceeding may not be initiated or maintained by the commission or
1208 department on the basis, in whole or in part, of a violation of this title unless a person listed in
1209 Subsections 32A-1-105~~(15)~~(18)(a)(i) through (vi) against whom the violation is alleged is
1210 notified by the department of the violation in accordance with this section.

1211 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer
1212 may not report a violation of this title to the department more than eight business days after the
1213 day on which a nondepartment enforcement officer or agency completes an investigation that
1214 finds a violation of this title.

1215 (b) If the commission or department wants the right to initiate or maintain a
1216 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
1217 report described in Subsection (3)(a), the department shall notify a person listed in Subsections
1218 32A-1-105~~(15)~~(18)(a)(i) through (vi) alleged by the report to have violated this title:

1219 (i) by no later than eight business days of the day on which the department receives the
1220 report described in Subsection (3)(a); and

1221 (ii) that the commission or department may initiate or maintain a disciplinary
1222 proceeding on the basis, in whole or in part, of the violation.

1223 (4) If the commission or department wants the right to initiate or maintain a
1224 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by
1225 report of a department compliance officer, the department shall notify a person listed in
1226 Subsections 32A-1-105~~(15)~~(18)(a)(i) through (vi) alleged by the report to have violated this
1227 title:

1228 (a) by no later than eight business days of the day on which the department compliance
1229 officer completes an investigation that finds a violation of this title; and

1230 (b) that the commission or department may initiate or maintain a disciplinary
1231 proceeding on the basis, in whole or in part, of the violation.

1232 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to
1233 a person listed in Subsection 32A-1-105~~(15)~~(18)(a)(vii).

1234 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after

1235 the oral notification the department provides written notification.

1236 (b) The written notification described in Subsection (6)(a) may be sent outside the time
1237 periods required by this section.

1238 (7) The department shall maintain a record of a notification required by Subsection (2),
1239 (3)(b), or (4) that includes:

1240 (a) the name of the person notified; and

1241 (b) the date of the notification.

1242 Section 10. Section **32A-1-304.5** is enacted to read:

1243 **32A-1-304.5. Verification of proof of age by certain club licensees.**

1244 (1) For purposes of this section, "applicable club licensee" means the following as
1245 defined in Section 32A-5-101:

1246 (a) a dining club licensee; or

1247 (b) a social club licensee.

1248 (2) Notwithstanding any other provision of this part, an applicable club licensee shall
1249 require that a person authorized to sell or otherwise handle an alcoholic beverage or alcoholic
1250 product under the applicable club license verify proof of age as provided in this section.

1251 (3) A person described in Subsection (2) is required to verify proof of age under this
1252 section before an individual who appears to be 35 years of age or younger:

1253 (a) gains admittance to the premises of a social club licensee; or

1254 (b) procures an alcoholic beverage or alcoholic product on the premises of a dining
1255 club licensee.

1256 (4) To comply with Subsection (3), a person shall:

1257 (a) request the individual present proof of age; and

1258 (b) (i) verify the validity of the proof of age electronically under the verification
1259 program created in Subsection (5); or

1260 (ii) if the proof of age cannot be electronically verified as provided in Subsection
1261 (4)(b)(i), request that the individual comply with a process established by the commission by
1262 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1263 (5) The commission shall establish by rule made in accordance with Title 63G, Chapter
1264 3, Utah Administrative Rulemaking Act, an electronic verification program that includes the
1265 following:

1266 (a) the specifications for the technology used by the applicable club licensee to
1267 electronically verify proof of age, including that the technology display to the person described
1268 in Subsection (2) no more than the following for the individual who presents the proof of age:

1269 (i) the name;

1270 (ii) the age;

1271 (iii) the number assigned to the individual's proof of age by the issuing authority;

1272 (iv) the birth date;

1273 (v) the gender; and

1274 (vi) the status and expiration date of the individual's proof of age; and

1275 (b) the security measures that must be used by an applicable club licensee to ensure
1276 that information obtained under this section is:

1277 (i) used by the applicable club licensee only for purposes of verifying proof of age in
1278 accordance with this section; and

1279 (ii) retained by the applicable club licensee for seven days after the day on which the
1280 applicable club licensee obtains the information.

1281 (6) (a) An applicable club licensee may not disclose information obtained under this
1282 section except as provided under this title.

1283 (b) Information obtained under this section is considered a record for any purpose
1284 under Section 32A-5-107.

1285 Section 11. Section **32A-1-603** is amended to read:

1286 **32A-1-603. Sexually oriented entertainer.**

1287 (1) Subject to the restrictions of this section, live entertainment is permitted on a
1288 premises or at an event regulated by the commission.

1289 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:

1290 (a) appear or perform in a state of nudity;

1291 (b) perform or simulate an act of:

1292 (i) sexual intercourse;

1293 (ii) masturbation;

1294 (iii) sodomy;

1295 (iv) bestiality;

1296 (v) oral copulation;

- 1297 (vi) flagellation; or
- 1298 (vii) a sexual act that is prohibited by Utah law; or
- 1299 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 1300 (3) A sexually oriented entertainer may perform in a state of seminudity:
- 1301 (a) only in:
- 1302 ~~(i) a tavern; or [class D private club; and]~~
- 1303 (ii) a social club license premises; and
- 1304 (b) only if:
- 1305 (i) all windows, doors, and other apertures to the premises are darkened or otherwise
- 1306 constructed to prevent anyone outside the premises from seeing the performance; and
- 1307 (ii) the outside entrance doors of the premises remain unlocked.
- 1308 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
- 1309 performance area that is:
- 1310 (a) approved by the commission in accordance with rules made by the commission in
- 1311 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1312 (b) configured so as to preclude a patron from:
- 1313 (i) touching the sexually oriented entertainer; or
- 1314 (ii) placing any money or object on or within the costume or the person of the sexually
- 1315 oriented entertainer; and
- 1316 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 1317 patron.
- 1318 (5) A sexually oriented entertainer may not touch a patron:
- 1319 (a) during the sexually oriented entertainer's performance; or
- 1320 (b) while the sexually oriented entertainer is dressed in performance attire or costume.
- 1321 (6) A sexually oriented entertainer, while in the portion of the premises used by
- 1322 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
- 1323 entertainer's performance attire or costume from the top of the breast to the knee.
- 1324 (7) A patron may not be on the stage or in the performance area while a sexually
- 1325 oriented entertainer is appearing or performing on the stage or in the performance area.
- 1326 (8) A patron may not:
- 1327 (a) touch a sexually oriented entertainer:

- 1328 (i) during the sexually oriented entertainer's performance; or
- 1329 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;

1330 or

1331 (b) place money or any other object on or within the costume or the person of the
1332 sexually oriented entertainer.

1333 (9) A minor may not be on a premises described in Subsection (3) [~~when a sexually~~
1334 ~~oriented entertainer is performing on the premises~~].

1335 (10) A person who appears or performs for the entertainment of patrons on a premises
1336 or at an event regulated by the commission that is not a tavern or [~~class D private club~~] social
1337 club licensee:

- 1338 (a) may not appear or perform in a state of nudity or a state of seminudity; and
- 1339 (b) may appear or perform in opaque clothing that completely covers the person's
1340 genitals, pubic area, and anus if the covering:

- 1341 (i) is not less than the following at its widest point:
 - 1342 (A) four inches coverage width in the front of the human body; and
 - 1343 (B) five inches coverage width in the back of the human body;
- 1344 (ii) does not taper to less than one inch wide at the narrowest point; and
- 1345 (iii) if covering a female, completely covers the breast below the top of the areola.

1346 Section 12. Section **32A-2-103** is amended to read:

1347 **32A-2-103. Operational restrictions.**

1348 (1) (a) Liquor may not be sold from a state store except in a sealed package. [~~The~~]

1349 (b) A sealed package may not be opened on the premises of [~~any~~] a state store.

1350 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow
1351 to be consumed by any person [~~any~~] an alcoholic beverage on the premises of a state store.

1352 (b) Violation of this Subsection (2) is a class B misdemeanor.

1353 [~~(3) All liquor sold shall be in packages that are properly marked and labeled in~~
1354 ~~accordance with the rules adopted under this title.~~]

1355 [~~(4)~~] (3) Liquor may not be sold except at prices fixed by the commission.

1356 [~~(5)~~] (4) Liquor may not be sold, delivered, or furnished to [~~any~~] a:

- 1357 (a) minor;
- 1358 (b) person actually, apparently, or obviously intoxicated;

1359 (c) known habitual drunkard; or

1360 (d) known interdicted person.

1361 ~~[(6)]~~ (5) Sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a
1362 state store, nor may ~~[any]~~ a state store be kept open for the sale of liquor:

1363 (a) on Sunday;

1364 (b) on ~~[any]~~ a state or federal legal holiday; ~~or~~

1365 ~~[(c) on any day on which any regular general election, regular primary election, or~~
1366 ~~statewide special election is held;]~~

1367 ~~[(d) on any day on which any municipal, local district, special service district, or school~~
1368 ~~election is held, but only within the boundaries of the municipality, local district, special~~
1369 ~~service district, or school district holding the election and only if the municipality, local~~
1370 ~~district, special service district or school district in which the election is being held notifies the~~
1371 ~~department at least 30 days prior to the date of the election; or]~~

1372 ~~[(e)]~~ (c) except on days and during hours as the commission may direct by rule or
1373 order.

1374 ~~[(7) Each]~~ (6) A state store shall display in a prominent place in the store a sign in
1375 large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious
1376 crime that is prosecuted aggressively in Utah."

1377 ~~[(8)]~~ (7) (a) A minor may not be admitted into, or be on the premises of a state store
1378 unless accompanied by a person who is:

1379 (i) 21 years of age or older; and

1380 (ii) the minor's parent, legal guardian, or spouse.

1381 (b) ~~[Any]~~ A state store employee that has reason to believe that a person who is on the
1382 premises of a state store is under the age of 21 and is not accompanied by a person described in
1383 Subsection ~~[(8)]~~ (7)(a) may:

1384 (i) ask the suspected minor for proof of age;

1385 (ii) ask the person who ~~[accompanied]~~ accompanies the suspected minor for proof of
1386 age; and

1387 (iii) ask the suspected minor or the person who ~~[accompanied]~~ accompanies the
1388 suspected minor for proof of parental, guardianship, or spousal relationship.

1389 (c) ~~[Any]~~ A state store employee shall refuse to sell liquor to the suspected minor and

1390 to the person who [~~accompanied~~] accompanies the suspected minor into the state store if [~~they~~
1391 ~~fail~~] the suspected minor or person fails to provide [~~any of the~~] information specified in
1392 Subsection [~~(8)~~] (7)(b).

1393 (d) [~~Any~~] A state store employee shall require [~~the~~] a suspected minor and the person
1394 who [~~accompanied~~] accompanies the suspected minor into the state store to immediately leave
1395 the premises of the state store if [~~they fail~~] the suspected minor or person fails to provide [~~any~~
1396 ~~of the~~] information specified in Subsection [~~(8)~~] (7)(b).

1397 Section 13. Section **32A-3-106** is amended to read:

1398 **32A-3-106. Operational restrictions.**

1399 (1) (a) A package agency may not be operated until a package agency agreement has
1400 been entered into by the package agent and the department.

1401 (b) The agreement shall state the conditions of operation by which the package agent
1402 and the department are bound.

1403 (c) If the package agent violates the conditions, terms, or covenants contained in the
1404 agreement or violates any provisions of this title, the department may take whatever action
1405 against the agent that is allowed by the package agency agreement.

1406 (d) Actions against the package agent are governed solely by the agreement and may
1407 include suspension or revocation of the agency.

1408 (2) (a) A package agency may not purchase liquor from any person except from the
1409 department.

1410 (b) At the discretion of the department, liquor may be provided by the department to a
1411 package agency for sale on consignment.

1412 (3) The department may pay or otherwise remunerate a package agent on any basis
1413 including sales or volume of business done by the agency.

1414 (4) Liquor may not be sold from any package agency except in a sealed package. The
1415 package may not be opened on the premises of a package agency.

1416 [~~(5) All liquor sold shall be in packages that are properly marked and labeled in~~
1417 ~~accordance with the rules adopted under this title.~~]

1418 [~~(6)~~] (5) A package agency may not display liquor or price lists in windows or
1419 showcases visible to passersby.

1420 [~~(7)~~] (6) (a) An officer, agent, clerk, or employee of a package agency may not

1421 consume or allow to be consumed by any person any alcoholic beverage on the premises of a
 1422 package agency.

1423 (b) Violation of this Subsection [~~(7)~~] (6) is a class B misdemeanor.

1424 [~~(8)~~] (7) Liquor may not be sold except at prices fixed by the commission.

1425 [~~(9)~~] (8) Liquor may not be sold, delivered, or furnished to any:

1426 (a) minor;

1427 (b) person actually, apparently, or obviously intoxicated;

1428 (c) known habitual drunkard; or

1429 (d) known interdicted person.

1430 [~~(10)~~] (9) (a) Subject to [~~Subsection (10)(b)~~] the other provisions of this Subsection

1431 (9), sale or delivery of liquor may not be made on or from the premises of [~~any~~] a package
 1432 agency nor may [~~any~~] a package agency be kept open for the sale of liquor:

1433 (i) (A) on Sunday; or

1434 (B) on a state or federal legal holiday; and

1435 (ii) except on days and during hours as the commission may direct by rule or order.

1436 (b) The restrictions in Subsection [~~(10)~~] (9)(a)(i) govern unless:

1437 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing
 1438 Licenses;

1439 (ii) the winery licensed under Chapter 8, Manufacturing Licenses, holds:

1440 (A) a restaurant liquor license under Chapter 4, Part 1, Restaurant Liquor Licenses; or

1441 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;

1442 (iii) the restaurant described in Subsection [~~(10)~~] (9)(b)(ii) is located at the winery;

1443 (iv) the restaurant described in Subsection [~~(10)~~] (9)(b)(ii) sells wines produced at the
 1444 winery;

1445 (v) the winery described in Subsection [~~(10)~~] (9)(b)(i):

1446 (A) owns the restaurant; or

1447 (B) operates the restaurant;

1448 (vi) the package agency only sells wine produced at the winery; and

1449 (vii) the package agency's days and hours of sale are the same as the days and hours of
 1450 sale at the restaurant described in Subsection [~~(10)~~] (9)(b)(ii).

1451 [~~(c) (i) In addition to the requirements of Subsection (10)(a), the sale or delivery of~~

1452 ~~liquor may not be made on or from the premises of a package agency described in Subsection~~
1453 ~~(10)(c)(ii) and a package agency described in Subsection (10)(c)(ii) may not be open for the~~
1454 ~~sale of liquor until after the polls are closed:]~~

1455 ~~[(A) on a day on which is held:]~~

1456 ~~[(F) a regular general election;]~~

1457 ~~[(H) a regular primary election; or]~~

1458 ~~[(HH) a statewide special election; or]~~

1459 ~~[(B) on a day on which is held a municipal, local district, special service district, or~~
1460 ~~school election if:]~~

1461 ~~[(F) the package agency is within the boundaries of the municipality, local district,~~
1462 ~~special service district, or school district holding the election; and]~~

1463 ~~[(H) the municipality, local district, special service district, or school district in which~~
1464 ~~the election is held notifies the department at least 30 days before the day on which the election~~
1465 ~~is held:]~~

1466 ~~[(ii) This Subsection (10)(c) applies to a package agency that contracts with the~~
1467 ~~department to sell liquor in a manner similar to a state store, whether or not the operator of the~~
1468 ~~package agency has a source of income that is not from the sale of liquor.]~~

1469 ~~[(iii) The commission may by rule made in accordance with Title 63G, Chapter 3, Utah~~
1470 ~~Administrative Rulemaking Act, define what constitutes a package agency that sells liquor "in~~
1471 ~~a manner similar to a state store."]~~

1472 ~~[(H)]~~ (10) The package agency certificate issued by the commission shall be
1473 permanently posted in a conspicuous place in the package agency.

1474 ~~[(H2) Each]~~ (11) A package agent shall display in a prominent place in the package
1475 agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs
1476 is a serious crime that is prosecuted aggressively in Utah."

1477 ~~[(H3)]~~ (12) (a) A package agency may not close or cease operation for a period longer
1478 than 72 hours, unless:

1479 (i) the package agency notifies the department in writing at least seven days before the
1480 closing; and

1481 (ii) the closure or cessation of operation is first approved by the department.

1482 (b) Notwithstanding Subsection ~~[(H3)]~~ (12)(a), in the case of emergency closure,

1483 immediate notice of closure shall be made to the department by telephone.

1484 (c) (i) The department may authorize a closure or cessation of operation for a period
1485 not to exceed 60 days.

1486 (ii) The department may extend the initial period an additional 30 days upon written
1487 request of the package agency and upon a showing of good cause.

1488 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1489 commission approval.

1490 (d) The notice required by Subsection [~~(13)~~] (12)(a) shall include:

1491 (i) the dates of closure or cessation of operation;

1492 (ii) the reason for the closure or cessation of operation; and

1493 (iii) the date on which the agency will reopen or resume operation.

1494 (e) Failure of the agency to provide notice and to obtain department authorization prior
1495 to closure or cessation of operation shall result in an automatic termination of the package
1496 agency contract effective immediately.

1497 (f) Failure of the agency to reopen or resume operation by the approved date shall
1498 result in an automatic termination of the package agency contract effective on that date.

1499 [~~(14)~~] (13) Liquor may not be stored or sold in any place other than as designated in the
1500 package agent's application, unless the package agent first applies for and receives approval
1501 from the department for a change of location within the package agency premises.

1502 [~~(15)~~] (14) (a) Except to the extent authorized by commission rule, a minor may not be
1503 admitted into, or be on the premises of a package agency unless accompanied by a person who
1504 is:

1505 (i) 21 years of age or older; and

1506 (ii) the minor's parent, legal guardian, or spouse.

1507 (b) [~~Any~~] A package agent or employee of the package agency that has reason to
1508 believe that a person who is on the premises of a package agency store is under the age of 21
1509 and is not accompanied by a person described in Subsection [~~(15)~~] (14)(a) may:

1510 (i) ask the suspected minor for proof of age;

1511 (ii) ask the person who [~~accompanied~~] accompanies the suspected minor for proof of
1512 age; and

1513 (iii) ask the suspected minor or the person who [~~accompanied~~] accompanies the

1514 suspected minor for proof of parental, guardianship, or spousal relationship.

1515 (c) [~~Any~~] A package agent or employee of a package agency shall refuse to sell liquor
1516 to the suspected minor and to the person who [~~accompanied~~] accompanies the suspected minor
1517 into the package agency if [~~they fail~~] the minor or person fails to provide any [~~of the~~]
1518 information specified in Subsection [~~(15)~~] (14)(b).

1519 (d) [~~Any~~] A package agent or employee of a package agency shall require the suspected
1520 minor and the person who [~~accompanied~~] accompanies the suspected minor into the package
1521 agency to immediately leave the premises of the package agency if [~~they fail~~] the minor or
1522 person fails to provide [~~any of the~~] information specified in Subsection [~~(15)~~] (14)(b).

1523 [~~(16)~~] (15) A package agency may not transfer its operations from one location to
1524 another location without prior written approval of the commission.

1525 [~~(17)~~] (16) (a) A person, having been granted a package agency, may not sell, transfer,
1526 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
1527 other person, whether for monetary gain or not.

1528 (b) A package agency has no monetary value for the purpose of any type of disposition.

1529 Section 14. Section **32A-4-102** is amended to read:

1530 **32A-4-102. Application and renewal requirements.**

1531 (1) A person seeking a restaurant liquor license under this part shall file a written
1532 application with the department, in a form prescribed by the department. It shall be
1533 accompanied by:

1534 (a) a nonrefundable \$250 application fee;

1535 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1536 (c) written consent of the local authority;

1537 (d) a copy of the applicant's current business license;

1538 (e) evidence of proximity to any community location, with proximity requirements
1539 being governed by Section 32A-4-101;

1540 (f) a bond as specified by Section 32A-4-105;

1541 (g) a floor plan of the restaurant, including consumption areas and the area where the
1542 applicant proposes to keep, store, and sell liquor;

1543 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1544 form satisfactory to the department;

1545 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1546 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

1547 (j) a signed consent form stating that the restaurant will permit any authorized
1548 representative of the commission, department, or any law enforcement officer unrestricted right
1549 to enter the restaurant;

1550 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1551 company, proper verification evidencing that the person or persons signing the restaurant
1552 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1553 company; and

1554 (l) any other information the commission or department may require.

1555 (2) (a) [~~AH~~] A restaurant liquor [~~licenses expire~~] license expires on October 31 of each
1556 year.

1557 (b) A person desiring to renew the person's restaurant liquor license shall by no later
1558 than September 30 submit:

1559 (i) a completed renewal application to the department; and

1560 (ii) a renewal fee in the following amount:

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

1566 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1567 the license effective on the date the existing license expires.

1568 (d) A renewal application shall be in a form as prescribed by the department.

1569 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may
1570 suspend or revoke a restaurant liquor license if the restaurant liquor licensee does not
1571 immediately notify the department of any change in:

1572 (a) ownership of the restaurant;

1573 (b) for a corporate owner, the:

1574 (i) corporate officers or directors; or

1575 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

1576 corporation; or

1577 (c) for a limited liability company:

1578 (i) managers; or

1579 (ii) members owning at least 20% of the limited liability company.

1580 Section 15. Section **32A-4-106** is amended to read:

1581 **32A-4-106. Operational restrictions.**

1582 A person granted a restaurant liquor license and the employees and management
1583 personnel of the restaurant shall comply with the following conditions and requirements.

1584 Failure to comply may result in a suspension or revocation of the restaurant liquor license or
1585 other disciplinary action taken against individual employees or management personnel.

1586 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
1587 store or package agency.

1588 (b) Liquor purchased from a state store or package agency may be transported by the
1589 restaurant liquor licensee from the place of purchase to the licensed premises.

1590 (c) Payment for liquor shall be made in accordance with rules established by the
1591 commission.

1592 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1593 a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
1594 dispensing system approved by the department in accordance with commission rules adopted
1595 under this title, except that:

1596 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1597 system if used as a secondary flavoring ingredient in a beverage subject to the following
1598 restrictions:

1599 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1600 a primary spirituous liquor;

1601 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1602 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1603 on the floor plan provided to the department; and

1604 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1605 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1606 system if used:

- 1607 (i) as a flavoring on a dessert; and
1608 (ii) in the preparation of a flaming food dish, drink, or dessert;
1609 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;
1610 and
1611 (d) a restaurant patron may have no more than one spirituous liquor drink at a time
1612 before the patron.
- 1613 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
1614 exceed five ounces per glass or individual portion.
- 1615 (ii) An individual portion of wine may be served to a patron in more than one glass as
1616 long as the total amount of wine does not exceed five ounces.
- 1617 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1618 Subsection (7)~~(f)~~(g).
- 1619 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1620 fixed by the commission to a table of four or more persons.
- 1621 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1622 fixed by the commission to a table of less than four persons.
- 1623 (c) A wine service may be performed and a service charge assessed by a restaurant
1624 liquor licensee as authorized by commission rule for wine purchased at the restaurant.
- 1625 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a
1626 price fixed by the commission.
- 1627 (b) A flavored malt beverage may be served in an original container not exceeding one
1628 liter at a price fixed by the commission.
- 1629 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by
1630 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.
- 1631 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for
1632 on-premise consumption:
- 1633 (A) in an open container; and
1634 (B) on draft.
- 1635 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1636 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1637 container that exceeds one liter.

1638 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):
1639 (i) may do so without obtaining a separate on-premise beer retailer license from the
1640 commission; and
1641 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1642 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1643 inconsistent with or less restrictive than the operational restrictions under this part.
1644 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1645 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1646 restaurant's:
1647 (i) state liquor license; and
1648 (ii) alcoholic beverage license issued by the local authority.
1649 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as
1650 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee
1651 first applies for and receives approval from the department for a change of location within the
1652 restaurant.
1653 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),
1654 "grandfathered bar structure" means a bar structure in a restaurant that:
1655 (A) as of May 11, 2009 has:
1656 (I) (Aa) patron seating at the bar structure;
1657 (Bb) a partition at one or more locations on the bar structure that is along the width of
1658 the bar structure; and
1659 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of
1660 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb); or
1661 (II) (Aa) patron seating at the bar structure;
1662 (Bb) a partition at one or more locations on the bar structure that is along the length of
1663 the bar structure; and
1664 (Cc) facilities for the dispensing or storage of an alcoholic beverage:
1665 (Ii) on the portion of the bar structure that is separated by a partition described in
1666 Subsection (7)(a)(i)(A)(II)(Bb); or
1667 (Iii) adjacent to the bar structure in a manner visible to a patron sitting at the bar
1668 structure;

1669 (B) is not operational as of May 12, 2009 and:
1670 (I) an applicant for a restaurant liquor license under this chapter:
1671 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
1672 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
1673 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
1674 Administrative Rulemaking Act; and
1675 (Cc) is granted a restaurant liquor license by the commission under this chapter by no
1676 later than December 31, 2009; and
1677 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described
1678 in Subsection (7)(a)(i)(A);
1679 (C) as of May 12, 2009, has no patron seating at the bar structure; or
1680 (D) is not operational as of May 12, 2009 and:
1681 (I) an applicant for a restaurant liquor license under this chapter:
1682 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
1683 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
1684 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
1685 Administrative Rulemaking Act; and
1686 (Cc) is granted a restaurant liquor license by the commission under this chapter by no
1687 later than December 31, 2009; and
1688 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described
1689 in Subsection (7)(a)(i)(C).
1690 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure
1691 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the
1692 grandfathered bar structure, as defined by rule made by the commission in accordance with
1693 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
1694 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a
1695 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of
1696 ownership.
1697 ~~[(7)(a)]~~ (b) (i) A patron may only make an alcoholic beverage 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 beverage.

1700 (ii) Only a person employed, designated, and trained by a restaurant liquor licensee
1701 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

1702 ~~[(ii)]~~ (iii) Notwithstanding Subsection (7)[(a)](b)(i) or (ii), a patron who purchases
1703 bottled wine from an employee of the restaurant or carries bottled wine onto the premises of
1704 the restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the
1705 patron or others at the patron's table.

1706 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

1707 (c) ~~[An]~~ A patron may consume an alcoholic beverage [may] only [be consumed]:

1708 (i) at:

1709 (A) the patron's table [or];

1710 (B) a counter; or

1711 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and

1712 (ii) where food is served.

1713 (d) ~~[An]~~ (i) An alcoholic beverage may not be served to or consumed by a patron at a
1714 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or
1715 (B).

1716 (ii) A patron who is 21 years of age or older may:

1717 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);

1718 (B) be served an alcoholic beverage at a grandfathered bar structure described in
1719 Subsection (7)(a)(i)(A) or (B); and

1720 (C) consume an alcoholic beverage at a grandfathered bar structure described in
1721 Subsection (7)(a)(i)(A) or (B).

1722 (iii) Except as provided in Subsection (7)(d)(iv), a restaurant liquor licensee may not
1723 permit a minor to, and a minor may not:

1724 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or

1725 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)
1726 or (B).

1727 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection
1728 (7)(a)(i)(A) or (B) if the minor is employed by a restaurant liquor licensee:

1729 (I) as provided in Subsection (16)(b); or

1730 (II) to perform maintenance and cleaning services during an hour when the restaurant

1731 liquor licensee is not open for business.

1732 (B) A minor may momentarily pass by a grandfathered bar structure described in
1733 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an
1734 area of a restaurant liquor licensee's premises in which the minor is permitted to be.

1735 (e) Except as provided in Subsection (14), a restaurant liquor licensee may dispense an
1736 alcoholic beverage only:

1737 (i) from:

1738 (A) a grandfathered bar structure;

1739 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
1740 the grandfathered bar structure if that area is used to dispense an alcoholic beverage or
1741 alcoholic product as of May 12, 2009; or

1742 (C) an area that is:

1743 (I) separated from an area for the consumption of food by a restaurant patron by a solid,
1744 opaque, permanent structural barrier such that the facilities for the dispensing or storage of an
1745 alcoholic beverage or alcoholic product are:

1746 (Aa) not readily visible to a restaurant patron; and

1747 (Bb) not accessible by a restaurant patron; and

1748 (II) apart from an area used:

1749 (Aa) for dining;

1750 (Bb) for staging; or

1751 (Cc) as a lobby or waiting area;

1752 (ii) if the restaurant liquor licensee uses an alcoholic beverage or alcoholic product that
1753 is:

1754 (A) stored in an area described in Subsection (7)(e)(i); or

1755 (B) on the premises of the restaurant liquor licensee in an area not described in
1756 Subsection (7)(e)(i) if:

1757 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in
1758 an unopened package;

1759 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it
1760 is opened; and

1761 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and

1762 (iii) if any instrument or equipment used to dispense an alcoholic beverage or alcoholic
1763 product is located in an area described in Subsection (7)(e)(i).

1764 (f) (i) A restaurant liquor licensee that has a grandfathered bar structure may receive a
1765 credit for purchases from a state store or package agency if:

1766 (A) the restaurant liquor licensee completes a remodel of the grandfathered bar
1767 structure by no later than December 31, 2011;

1768 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant
1769 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection
1770 (7)(e)(i)(C);

1771 (C) the restaurant liquor licensee requests the credit by no later than April 1, 2012;

1772 (D) the department determines that the restaurant liquor licensee has completed a
1773 remodel described in Subsections (7)(f)(i)(A) and (B); and

1774 (E) the department authorizes the credit, including the amount of the credit under
1775 Subsection (7)(f)(ii), on the basis that:

1776 (I) the restaurant liquor licensee complied with this Subsection (7); and

1777 (II) the aggregate of all credits authorized under this Subsection (7)(f) before the
1778 current authorization does not exceed \$1,090,000.

1779 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:

1780 (A) the actual costs of the remodel as evidenced by receipts, copies of which are
1781 provided to the department as part of the request for the credit; or

1782 (B) \$30,000.

1783 (iii) For a restaurant liquor licensee, a credit under this Subsection (7)(f):

1784 (A) begins on the day on which the department authorizes the credit under Subsection
1785 (7)(f)(i); and

1786 (B) ends the day on which the restaurant liquor licensee uses all of the credit.

1787 (iv) The department shall by contract provide for how a package agency accounts for a
1788 credit purchase made at the package agency by a restaurant liquor licensee under this
1789 Subsection (7)(f).

1790 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department
1791 may not authorize a credit if the aggregate of all credits authorized under this Subsection (7)(f)
1792 before the authorization exceeds \$1,090,000.

1793 (B) The department shall authorize credits in the order that the department receives a
1794 request described in Subsection (7)(f)(i)(C) from a restaurant liquor licensee requesting a credit
1795 under this Subsection (7)(f).

1796 ~~(e)~~ (g) A restaurant patron may have no more than two alcoholic beverages of any
1797 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1798 (8) (a) ~~The~~ A liquor storage area shall remain locked at all times other than those
1799 hours and days when liquor sales are authorized by law.

1800 (b) A restaurant liquor licensee shall store an alcoholic beverage or alcoholic product
1801 in a storage area described in Subsection (7)(e)(i).

1802 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1803 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.

1804 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1805 Licenses, for on-premise beer licensees.

1806 (10) An alcoholic beverage may not be sold except in connection with an order for
1807 food prepared, sold, and served at the restaurant.

1808 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

1809 (a) minor;

1810 (b) person actually, apparently, or obviously intoxicated;

1811 (c) known habitual drunkard; or

1812 (d) known interdicted person.

1813 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.

1814 (ii) Liquor may not be sold at a discount price on any date or at any time.

1815 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1816 beverage to the restaurant liquor licensee.

1817 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1818 over consumption or intoxication.

1819 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1820 hours of a restaurant liquor licensee's business day such as a "happy hour."

1821 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1822 alcoholic beverage.

1823 (f) An indefinite or unlimited number of alcoholic beverages during a set period may

1824 not be sold or served for a fixed price.

1825 (g) A restaurant liquor licensee may not engage in a public promotion involving or
1826 offering free an alcoholic beverage to the general public.

1827 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

1828 (a) the restaurant liquor licensee; or

1829 (b) an employee or agent of the restaurant liquor licensee.

1830 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an
1831 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1832 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor
1833 licensee for on-premise consumption.

1834 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an
1835 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

1836 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise
1837 consumption; or

1838 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the
1839 restaurant liquor licensee's premises.

1840 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1841 or other representative of the restaurant liquor licensee upon entering the restaurant.

1842 (d) A wine service may be performed and a service charge assessed by a restaurant
1843 liquor licensee as authorized by commission rule for wine carried in by a patron.

1844 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an
1845 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the
1846 restaurant premises an open container that:

1847 (i) is used primarily for drinking purposes; and

1848 (ii) contains an alcoholic beverage.

1849 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1850 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1851 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is
1852 recorked or recapped before removal.

1853 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an
1854 alcoholic beverage.

1855 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1856 employed to enter the sale at a cash register or other sales recording device.

1857 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1858 (a) consume an alcoholic beverage; or

1859 (b) be intoxicated.

1860 (18) A charge or fee made in connection with the sale, service, or consumption of liquor
1861 may be stated in food or alcoholic beverage menus including:

1862 (a) a set-up charge;

1863 (b) a service charge; or

1864 (c) a chilling fee.

1865 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

1866 (a) the liquor license that is [~~issued~~] granted by the department;

1867 (b) a list of the types and brand names of liquor being served through its calibrated
1868 metered dispensing system; and

1869 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1870 drugs is a serious crime that is prosecuted aggressively in Utah."

1871 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
1872 licensee:

1873 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1874 Chapter 10, Part 11, Gambling;

1875 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1876 Part 11, Gambling; or

1877 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1878 the risking of something of value for a return or for an outcome when the return or outcome is
1879 based upon an element of chance, excluding the playing of an amusement device that confers
1880 only an immediate and unrecorded right of replay not exchangeable for value.

1881 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record showing
1882 in detail:

1883 (i) quarterly expenditures made separately for:

1884 (A) malt or brewed beverages;

1885 (B) set-ups;

- 1886 (C) liquor;
- 1887 (D) food; and
- 1888 (E) all other items required by the department; and
- 1889 (ii) sales made separately for:
 - 1890 (A) malt or brewed beverages;
 - 1891 (B) set-ups;
 - 1892 (C) food; and
 - 1893 (D) all other items required by the department.
- 1894 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):
 - 1895 (i) in a form approved by the department; and
 - 1896 (ii) current for each three-month period.
- 1897 (c) An expenditure shall be supported by:
 - 1898 (i) a delivery ticket;
 - 1899 (ii) an invoice;
 - 1900 (iii) a receipted bill;
 - 1901 (iv) a canceled check;
 - 1902 (v) a petty cash voucher; or
 - 1903 (vi) other sustaining datum or memorandum.
- 1904 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 1905 liquor licensee shall maintain accounting and other records and documents as the department
- 1906 may require.
- 1907 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
- 1908 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 1909 other document of the restaurant that is required to be made, maintained, or preserved by this
- 1910 title or the rules of the commission for the purpose of deceiving the commission or the
- 1911 department, or an official or employee of the commission or department, is subject to:
 - 1912 (i) the suspension or revocation of the restaurant's liquor license; and
 - 1913 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1914 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 1915 longer than 240 hours, unless:
 - 1916 (i) the restaurant liquor licensee notifies the department in writing at least seven days

1917 before the day on which the restaurant liquor licensee closes or ceases operation; and
1918 (ii) the closure or cessation of operation is first approved by the department.
1919 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the
1920 restaurant liquor licensee shall immediately notify the department by telephone.
1921 (c) (i) The department may authorize a closure or cessation of operation for a period
1922 not to exceed 60 days.
1923 (ii) The department may extend the initial period an additional 30 days upon:
1924 (A) written request of the restaurant liquor licensee; and
1925 (B) a showing of good cause.
1926 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1927 commission approval.
1928 (d) A notice shall include:
1929 (i) the dates of closure or cessation of operation;
1930 (ii) the reason for the closure or cessation of operation; and
1931 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.
1932 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1933 authorization before closure or cessation of operation results in an automatic forfeiture of:
1934 (i) the license; and
1935 (ii) the unused portion of the license fee for the remainder of the license year effective
1936 immediately.
1937 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1938 approved date results in an automatic forfeiture of:
1939 (i) the license; and
1940 (ii) the unused portion of the license fee for the remainder of the license year.
1941 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant
1942 business from the sale of food, which does not include mix for an alcoholic beverage or service
1943 charges.
1944 (24) A restaurant liquor license may not be transferred from one location to another,
1945 without prior written approval of the commission.
1946 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1947 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license

1948 to another person whether for monetary gain or not.

1949 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1950 disposition.

1951 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment
1952 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic
1953 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic
1954 beverage ordered or consumed.

1955 (27) A person's willingness to serve an alcoholic beverage may not be made a
1956 condition of employment as a server with a restaurant that has a restaurant liquor license.

1957 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
1958 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1959 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1960 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1961 58-37-2; or

1962 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1963 Section 58-37a-3.

1964 Section 16. Section **32A-4-202** is amended to read:

1965 **32A-4-202. Application and renewal requirements.**

1966 (1) A person seeking an airport lounge liquor license under this part shall file a written
1967 application with the department, in a form prescribed by the department, accompanied by:

1968 (a) a nonrefundable \$250 application fee;

1969 (b) an initial license fee of \$7,000, which is refundable if a license is not granted;

1970 (c) written consent of the local and airport authority;

1971 (d) a copy of the applicant's current business license;

1972 (e) a bond as specified by Section 32A-4-205;

1973 (f) a floor plan of the airport lounge, including consumption areas and the area where
1974 the applicant proposes to keep, store, and sell liquor;

1975 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
1976 public that alcoholic beverages are sold and consumed there;

1977 (h) evidence that the airport lounge is carrying public liability insurance in an amount
1978 and form satisfactory to the department;

1979 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
1980 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

1981 (j) a signed consent form stating that the airport lounge will permit any authorized
1982 representative of the commission, department, or any law enforcement officer unrestricted right
1983 to enter the airport lounge;

1984 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1985 company, proper verification evidencing that the person or persons signing the airport lounge
1986 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1987 company; and

1988 (l) any other information the commission or department may require.

1989 (2) (a) [~~AH~~] An airport lounge liquor [~~licenses expire~~] license expires on October 31 of
1990 each year.

1991 (b) A person desiring to renew that person's airport lounge liquor license shall submit a
1992 renewal fee of \$5,000 and a completed renewal application to the department no later than
1993 September 30.

1994 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1995 the license, effective on the date the existing license expires.

1996 (d) Renewal applications shall be in a form as prescribed by the department.

1997 (3) To ensure compliance with Subsection 32A-4-206(21), the commission may revoke
1998 an airport lounge liquor license if the airport liquor licensee does not immediately notify the
1999 department of any change in:

2000 (a) ownership of the licensee;

2001 (b) for a corporate owner, the:

2002 (i) corporate officers or directors; or

2003 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2004 corporation; or

2005 (c) for a limited liability company:

2006 (i) managers; or

2007 (ii) members owning at least 20% of the limited liability company.

2008 Section 17. Section **32A-4-303** is amended to read:

2009 **32A-4-303. Application and renewal requirements.**

2010 (1) A person seeking a limited restaurant license under this part shall file a written
2011 application with the department, in a form prescribed by the department. The application shall
2012 be accompanied by:

2013 (a) a nonrefundable \$250 application fee;

2014 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2015 (c) written consent of the local authority;

2016 (d) a copy of the applicant's current business license;

2017 (e) evidence of proximity to any community location, with proximity requirements

2018 being governed by Section 32A-4-302;

2019 (f) a bond as specified by Section 32A-4-306;

2020 (g) a floor plan of the restaurant, including:

2021 (i) consumption areas; and

2022 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
2023 beer;

2024 (h) evidence that the restaurant is carrying public liability insurance in an amount and
2025 form satisfactory to the department;

2026 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
2027 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

2028 (j) a signed consent form stating that the restaurant will permit any authorized
2029 representative of the commission, department, or any law enforcement officer unrestricted right
2030 to enter the restaurant;

2031 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2032 company, proper verification evidencing that the person or persons signing the restaurant
2033 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2034 company; and

2035 (l) any other information the commission or department may require.

2036 (2) (a) [~~AH~~] A limited restaurant [~~licenses expire~~] license expires on October 31 of
2037 each year.

2038 (b) A person desiring to renew that person's limited restaurant license shall submit:

2039 (i) a renewal fee of \$300; and

2040 (ii) a renewal application to the department no later than September 30.

2041 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2042 the license effective on the date the existing license expires.

2043 (d) A renewal application shall be in a form as prescribed by the department.

2044 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
2045 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2046 immediately notify the department of any change in:

2047 (a) ownership of the restaurant;

2048 (b) for a corporate owner, the:

2049 (i) corporate officer or directors; or

2050 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2051 corporation; or

2052 (c) for a limited liability company:

2053 (i) managers; or

2054 (ii) members owning at least 20% of the limited liability company.

2055 Section 18. Section **32A-4-307** is amended to read:

2056 **32A-4-307. Operational restrictions.**

2057 A person granted a limited restaurant license and the employees and management
2058 personnel of the limited restaurant shall comply with the following conditions and
2059 requirements. Failure to comply may result in a suspension or revocation of the license or
2060 other disciplinary action taken against individual employees or management personnel.

2061 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2062 except from a state store or package agency.

2063 (b) Wine and heavy beer purchased from a state store or package agency may be
2064 transported by the limited restaurant licensee from the place of purchase to the licensed
2065 premises.

2066 (c) Payment for wine and heavy beer shall be made in accordance with rules
2067 established by the commission.

2068 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the
2069 products listed in Subsection (2)(c) on the premises of the limited restaurant.

2070 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited
2071 restaurant except for use:

- 2072 (i) as a flavoring on a dessert; and
2073 (ii) in the preparation of a flaming food dish, drink, or dessert.
2074 (c) This Subsection (2) applies to:
2075 (i) spirituous liquor; and
2076 (ii) [~~on or after October 1, 2008;~~] a flavored malt beverage.
2077 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2078 exceed five ounces per glass or individual portion.
2079 (ii) An individual portion may be served to a patron in more than one glass as long as
2080 the total amount of wine does not exceed five ounces.
2081 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2082 Subsection (7)~~(e)~~(g).
2083 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
2084 fixed by the commission to a table of four or more persons.
2085 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
2086 fixed by the commission to a table of less than four persons.
2087 (c) A wine service may be performed and a service charge assessed by the limited
2088 restaurant licensee as authorized by commission rule for wine purchased at the limited
2089 restaurant.
2090 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a
2091 price fixed by the commission.
2092 (b) A service charge may be assessed by the limited restaurant licensee as authorized
2093 by commission rule for heavy beer purchased at the limited restaurant.
2094 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
2095 on-premise consumption:
2096 (A) in an open container; and
2097 (B) on draft.
2098 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
2099 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2100 container that exceeds one liter.
2101 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):
2102 (i) may do so without obtaining a separate on-premise beer retailer license from the

2103 commission; and

2104 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2105 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
2106 inconsistent with or less restrictive than the operational restrictions under this part.

2107 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2108 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
2109 restaurant's:

2110 (i) limited restaurant license; and

2111 (ii) alcoholic beverage license issued by the local authority.

2112 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than
2113 as designated in the limited restaurant licensee's application, unless the limited restaurant
2114 licensee first applies for and receives approval from the department for a change of location
2115 within the limited restaurant.

2116 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),

2117 "grandfathered bar structure" means a bar structure in a restaurant that:

2118 (A) as of May 11, 2009 has:

2119 (I) (Aa) patron seating at the bar structure;

2120 (Bb) a partition at one or more locations on the bar structure that is along the width of
2121 the bar structure; and

2122 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of
2123 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb); or

2124 (II) (Aa) patron seating at the bar structure;

2125 (Bb) a partition at one or more locations on the bar structure that is along the length of
2126 the bar structure; and

2127 (Cc) facilities for the dispensing or storage of an alcoholic beverage:

2128 (Ii) on the portion of the bar structure that is separated by a partition described in
2129 Subsection (7)(a)(i)(A)(II)(Bb); or

2130 (Iiii) adjacent to the bar structure in a manner visible to a patron sitting at the bar
2131 structure;

2132 (B) is not operational as of May 12, 2009 and:

2133 (I) an applicant for a limited restaurant license under this chapter:

2134 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
2135 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2136 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
2137 Administrative Rulemaking Act; and
2138 (Cc) is granted a limited restaurant license by the commission under this chapter by no
2139 later than December 31, 2009; and
2140 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described
2141 in Subsection (7)(a)(i)(A);
2142 (C) as of May 12, 2009, has no patron seating at the bar structure; or
2143 (D) is not operational as of May 12, 2009 and;
2144 (I) an applicant for a limited restaurant license under this chapter:
2145 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
2146 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2147 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
2148 Administrative Rulemaking Act; and
2149 (Cc) is granted a limited restaurant license by the commission under this chapter by no
2150 later than December 31, 2009; and
2151 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described
2152 in Subsection (7)(a)(i)(C).
2153 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure
2154 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the
2155 grandfathered bar structure, as defined by rule made by the commission in accordance with
2156 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
2157 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a
2158 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of
2159 ownership.
2160 ~~(7)(a)~~ (b) (i) A patron may only make an alcoholic beverage purchase in a limited
2161 restaurant from and be served by a person employed, designated, and trained by the limited
2162 restaurant licensee to sell and serve an alcoholic beverage.
2163 (ii) Only a person employed, designated, and trained by a limited restaurant licensee
2164 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

2165 ~~[(i)]~~ (iii) Notwithstanding Subsection (7)~~[(a)]~~(b)(i) or (ii), a patron who purchases
2166 bottled wine from an employee of the limited restaurant licensee or carries bottled wine onto
2167 the premises of the limited restaurant pursuant to Subsection (14) may thereafter serve wine
2168 from the bottle to the patron or others at the patron's table.

2169 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

2170 (c) ~~[An]~~ A patron may consume an alcoholic beverage ~~[may]~~ only ~~[be consumed]~~;

2171 (i) at:

2172 (A) the patron's table ~~[or]~~;

2173 (B) a counter;

2174 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and

2175 (ii) where food is served.

2176 (d) ~~[An]~~ (i) An alcoholic beverage may not be served to or consumed by a patron at a
2177 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or
2178 (B).

2179 (ii) A patron who is 21 years of age or older may:

2180 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);

2181 (B) be served an alcoholic beverage at a grandfathered bar structure described in
2182 Subsection (7)(a)(i)(A) or (B); and

2183 (C) consume an alcoholic beverage at a grandfathered bar structure described in
2184 Subsection (7)(a)(i)(A) or (B).

2185 (iii) Except as provided in Subsection (7)(d)(iv), a limited restaurant licensee may not
2186 permit a minor to, and a minor may not:

2187 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or

2188 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)
2189 or (B).

2190 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection
2191 (7)(a)(i)(A) or (B) if the minor is employed by a limited restaurant licensee:

2192 (I) as provided in Subsection (16)(b); or

2193 (II) to perform maintenance and cleaning services during an hour when the limited
2194 restaurant licensee is not open for business.

2195 (B) A minor may momentarily pass by a grandfathered bar structure described in

2196 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an
2197 area of a limited restaurant licensee's premises in which the minor is permitted to be.

2198 (e) Except as provided in Subsection (14), a limited restaurant licensee may dispense
2199 an alcoholic beverage only:

2200 (i) from:

2201 (A) a grandfathered bar structure;

2202 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2203 the grandfathered bar structure if that area is used to dispense an alcoholic beverage or

2204 alcoholic product as of May 12, 2009; or

2205 (C) an area that is:

2206 (I) separated from an area for the consumption of food by a restaurant patron by a solid,
2207 opaque, permanent structural barrier such that the facilities for the dispensing or storage of an

2208 alcoholic beverage or alcoholic product are:

2209 (Aa) not readily visible to a restaurant patron; and

2210 (Bb) not accessible by a restaurant patron; and

2211 (II) apart from an area used for:

2212 (Aa) dining;

2213 (Bb) staging; or

2214 (Cc) as a lobby or waiting area;

2215 (ii) if the limited restaurant licensee uses an alcoholic beverage or alcoholic product

2216 that is:

2217 (A) stored in an area described in Subsection (7)(e)(i); or

2218 (B) on the premises of the limited restaurant licensee in an area not described in

2219 Subsection (7)(e)(i) if:

2220 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in
2221 an unopened package;

2222 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it
2223 is opened; and

2224 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and

2225 (iii) if any instrument or equipment used to dispense an alcoholic beverage is located in
2226 an area described in Subsection (7)(e)(i).

2227 (f) (i) A limited restaurant licensee that has a grandfathered bar structure may receive a
2228 credit for purchases from a state store or package agency if:

2229 (A) the limited restaurant licensee completes a remodel of the grandfathered bar
2230 structure by no later than December 31, 2011;

2231 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant
2232 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection
2233 (7)(e)(i)(C);

2234 (C) the limited restaurant licensee requests the credit by no later than April 1, 2012;

2235 (D) the department determines that the limited restaurant licensee has completed a
2236 remodel described in Subsections (7)(f)(i)(A) and (B); and

2237 (E) the department authorizes the credit, including the amount of the credit under
2238 Subsection (7)(f)(ii), on the basis that:

2239 (I) the limited restaurant licensee complied with this Subsection (7); and

2240 (II) the aggregate of all credits authorized under this Subsection (7)(f) before the
2241 current authorization does not exceed \$1,090,000.

2242 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:

2243 (A) the actual costs of the remodel as evidenced by receipts, copies of which are
2244 provided to the department as part of the request for the credit; or

2245 (B) \$30,000.

2246 (iii) For a limited restaurant licensee, a credit under this Subsection (7)(f):

2247 (A) begins on the day on which the department authorizes the credit under Subsection
2248 (7)(f)(i); and

2249 (B) ends the day on which the limited restaurant licensee uses all of the credit.

2250 (iv) The department shall by contract provide for how a package agency accounts for a
2251 credit purchase made at the package agency by a limited restaurant licensee under this
2252 Subsection (7)(f).

2253 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department
2254 may not authorize a credit if the aggregate of all credits authorized under this Subsection (7)(f)
2255 before the authorization exceeds \$1,090,000.

2256 (B) The department shall authorize credits in the order that the department receives a
2257 request described in Subsection (7)(f)(i)(C) from a limited restaurant licensee requesting a

2258 credit under this Subsection (7)(f).

2259 [~~(e)~~] (g) A limited restaurant patron may have no more than two alcoholic beverages of
2260 any kind at a time before the patron.

2261 (8) (a) [~~The~~] An alcoholic beverage storage area shall remain locked at all times other
2262 than those hours and days when alcoholic beverage sales are authorized by law.

2263 (b) A limited restaurant licensee shall store an alcoholic beverage or alcoholic product
2264 in a storage area described in Subsection (7)(e)(i).

2265 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2266 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.

2267 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2268 Licenses, for on-premise beer licensees.

2269 (10) An alcoholic beverage may not be sold except in connection with an order of food
2270 prepared, sold, and served at the limited restaurant.

2271 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

2272 (a) minor;

2273 (b) person actually, apparently, or obviously intoxicated;

2274 (c) known habitual drunkard; or

2275 (d) known interdicted person.

2276 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

2277 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

2278 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
2279 beverage to the limited restaurant licensee.

2280 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2281 over consumption or intoxication.

2282 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2283 hours of the limited restaurant licensee's business day such as a "happy hour."

2284 (e) More than one alcoholic beverage may not be sold or served for the price of a single
2285 alcoholic beverage.

2286 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
2287 not be sold or served for a fixed price.

2288 (g) A limited restaurant licensee may not engage in a public promotion involving or

2289 offering free alcoholic beverages to the general public.

2290 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant
2291 by:

2292 (a) the limited restaurant licensee; or

2293 (b) an employee or agent of the limited restaurant licensee.

2294 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an
2295 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2296 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited
2297 restaurant licensee for on-premise consumption.

2298 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an
2299 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

2300 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for
2301 on-premise consumption; or

2302 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
2303 limited restaurant licensee's premises.

2304 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2305 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2306 (d) A wine service may be performed and a service charge assessed by the limited
2307 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2308 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an
2309 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the
2310 limited restaurant premises an open container that:

2311 (i) is used primarily for drinking purposes; and

2312 (ii) contains an alcoholic beverage.

2313 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2314 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

2315 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an
2316 alcoholic beverage.

2317 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2318 employed to enter the sale at a cash register or other sales recording device.

2319 (17) An employee of a limited restaurant licensee, while on duty, may not:

- 2320 (a) consume an alcoholic beverage; or
- 2321 (b) be intoxicated.
- 2322 (18) A charge or fee made in connection with the sale, service, or consumption of wine
- 2323 or heavy beer may be stated in food or alcoholic beverage menus including:
- 2324 (a) a service charge; or
- 2325 (b) a chilling fee.
- 2326 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:
- 2327 (a) the limited restaurant license that is [~~issued~~] granted by the department; and
- 2328 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 2329 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2330 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 2331 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 2332 Chapter 10, Part 11, Gambling;
- 2333 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 2334 Part 11, Gambling; or
- 2335 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 2336 the risking of something of value for a return or for an outcome when the return or outcome is
- 2337 based upon an element of chance, excluding the playing of an amusement device that confers
- 2338 only an immediate and unrecorded right of replay not exchangeable for value.
- 2339 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
- 2340 showing in detail:
- 2341 (i) quarterly expenditures made separately for:
- 2342 (A) wine;
- 2343 (B) heavy beer;
- 2344 (C) beer;
- 2345 (D) food; and
- 2346 (E) all other items required by the department; and
- 2347 (ii) sales made separately for:
- 2348 (A) wine;
- 2349 (B) heavy beer;
- 2350 (C) beer;

- 2351 (D) food; and
- 2352 (E) all other items required by the department.
- 2353 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):
- 2354 (i) in a form approved by the department; and
- 2355 (ii) current for each three-month period.
- 2356 (c) An expenditure shall be supported by:
- 2357 (i) a delivery ticket;
- 2358 (ii) an invoice;
- 2359 (iii) a receipted bill;
- 2360 (iv) a canceled check;
- 2361 (v) a petty cash voucher; or
- 2362 (vi) other sustaining datum or memorandum.
- 2363 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2364 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2365 the department may require.
- 2366 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2367 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 2368 other document of the limited restaurant that is required to be made, maintained, or preserved
- 2369 by this title or the rules of the commission for the purpose of deceiving the commission, the
- 2370 department, or an official or employee of the commission or department, is subject to:
- 2371 (i) the suspension or revocation of the limited restaurant's license; and
- 2372 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2373 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 2374 longer than 240 hours, unless:
- 2375 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 2376 before the day on which the limited restaurant licensee closes or ceases operation; and
- 2377 (ii) the closure or cessation of operation is first approved by the department.
- 2378 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
- 2379 restaurant licensee shall immediately notify the department by telephone.
- 2380 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
- 2381 cessation of operation for a period not to exceed 60 days.

- 2382 (ii) The department may extend the initial period an additional 30 days upon:
2383 (A) written request of the limited restaurant licensee; and
2384 (B) a showing of good cause.
- 2385 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2386 commission approval.
- 2387 (d) A notice required by Subsection (22)(a) shall include:
2388 (i) the dates of closure or cessation of operation;
2389 (ii) the reason for the closure or cessation of operation; and
2390 (iii) the date on which the limited restaurant licensee will reopen or resume operation.
- 2391 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
2392 authorization before closure or cessation of operation results in an automatic forfeiture of:
2393 (i) the limited restaurant license; and
2394 (ii) the unused portion of the license fee for the remainder of the license year effective
2395 immediately.
- 2396 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
2397 approved date results in an automatic forfeiture of:
2398 (i) the limited restaurant license; and
2399 (ii) the unused portion of the license fee for the remainder of the license year.
- 2400 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant
2401 business from the sale of food, which does not include service charges.
- 2402 (24) A limited restaurant license may not be transferred from one location to another,
2403 without prior written approval of the commission.
- 2404 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
2405 give, or attempt in any way to dispose of the limited restaurant license to another person
2406 whether for monetary gain or not.
- 2407 (b) A limited restaurant license has no monetary value for the purpose of any type of
2408 disposition.
- 2409 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
2410 establishment shall keep a written beverage tab for each table or group that orders or consumes
2411 an alcoholic beverage on the premises.
- 2412 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an

2413 alcoholic beverage ordered or consumed.

2414 (27) A limited restaurant licensee may not make a person's willingness to serve an
2415 alcoholic beverage a condition of employment as a server with the limited restaurant.

2416 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
2417 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
2418 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2419 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2420 58-37-2; or

2421 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2422 Section 58-37a-3.

2423 Section 19. Section **32A-4-402** is amended to read:

2424 **32A-4-402. Application and renewal requirements.**

2425 (1) (a) A person seeking an on-premise banquet license under this part shall file a
2426 written application with the department, in a form prescribed by the department. The
2427 application shall be accompanied by:

2428 (i) a nonrefundable \$250 application fee;

2429 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2430 (iii) written consent of the local authority;

2431 (iv) a copy of the applicant's current business license;

2432 (v) evidence of proximity to any community location, with proximity requirements
2433 being governed by Section 32A-4-401;

2434 (vi) a bond as specified by Section 32A-4-405;

2435 (vii) a description or floor plan and boundary map of the premises, where appropriate,
2436 of the on-premise banquet license applicant's location, designating:

2437 (A) the location at which the on-premise banquet license applicant proposes that
2438 alcoholic beverages be stored; and

2439 (B) the designated locations on the premises of the applicant from which the
2440 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
2441 consumed;

2442 (viii) evidence that the on-premise banquet license applicant is carrying public liability
2443 insurance in an amount and form satisfactory to the department;

2444 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
2445 insurance coverage of at least [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~]
2446 \$2,000,000 in the aggregate;

2447 (x) a signed consent form stating that the on-premise banquet license applicant will
2448 permit any authorized representative of the commission, department, or any law enforcement
2449 officer unrestricted right to enter the on-premise banquet premises;

2450 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
2451 company, proper verification evidencing that the person or persons signing the on-premise
2452 banquet license application are authorized to so act on behalf of the partnership, corporation, or
2453 limited liability company; and

2454 (xii) any other information the commission or department may require.

2455 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
2456 and (vi) if the applicant is:

2457 (i) a state agency; or

2458 (ii) a political subdivision of the state including:

2459 (A) a county; or

2460 (B) a municipality.

2461 (2) Additional locations in or on the premises of an on-premise banquet license
2462 applicant's business from which the on-premise banquet license applicant may propose that
2463 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
2464 original application may be approved by the department upon proper application, in accordance
2465 with guidelines approved by the commission.

2466 (3) (a) [~~AH~~] An on-premise banquet [~~licenses expire~~] license expires on October 31 of
2467 each year.

2468 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that
2469 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed
2470 renewal application to the department no later than September 30.

2471 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2472 (A) a state agency; or

2473 (B) a political subdivision of the state including:

2474 (I) a county; or

2475 (II) a municipality.

2476 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2477 the license effective on the date the existing license expires.

2478 (d) A renewal application shall be in a form as prescribed by the department.

2479 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may
2480 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
2481 immediately notify the department of any change in:

2482 (a) ownership of the licensee;

2483 (b) for a corporate owner, the:

2484 (i) corporate officers or directors; or

2485 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2486 corporation; or

2487 (c) for a limited liability company:

2488 (i) managers; or

2489 (ii) members owning at least 20% of the limited liability company.

2490 Section 20. Section **32A-5-101** is amended to read:

2491 **CHAPTER 5. CLUB LICENSES**

2492 **32A-5-101. Commission's power to license clubs -- Limitations.**

2493 (1) As used in this chapter:

2494 (a) "Club license" means a license granted under this chapter.

2495 (b) "Club licensee" means a person granted a club license under this chapter.

2496 (c) "Dining club licensee" means a person who qualifies as a club licensee under
2497 Subsection (3)(a)(ii)(C).

2498 (d) "Equity club licensee" means a person who qualifies as a club licensee under
2499 Subsection (3)(a)(ii)(A).

2500 (e) "Fraternal club licensee" means a person who qualifies as a club licensee under
2501 Subsection (3)(a)(ii)(B).

2502 (f) "Social club licensee" means a person who qualifies as a club licensee under
2503 Subsection (3)(a)(ii)(D).

2504 ~~[(1)]~~ (2) Before a ~~[private club]~~ person may sell or allow the consumption of an
2505 alcoholic ~~[beverages]~~ beverage on its premises as a club licensee, the ~~[private club]~~ person

2506 shall first obtain a license from the commission as provided in this chapter.

2507 ~~[(2)] (3) (a)~~ The commission may grant ~~[private club licenses to social clubs,~~
 2508 ~~recreational, athletic, or kindred associations that desire to maintain premises upon which~~
 2509 ~~alcoholic beverages may be stored, sold, served, and consumed.]~~ a club license to a person that:

2510 ~~[(3) At the time the commission grants a private club license the commission shall~~
 2511 ~~designate whether the private club license qualifies as a class A, B, C, or D license as defined~~
 2512 ~~in Subsections (3)(a) through (d).]~~

2513 ~~[(a) A "class A licensee" is a private club licensee that:]~~

2514 ~~(i)~~ meets the requirements of this chapter; and

2515 ~~(ii) (A)~~ for an equity club licensee, meets the following requirements:

2516 (I) whether incorporated or unincorporated:

2517 (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal
 2518 purpose;

2519 (Bb) has members;

2520 (Cc) limits access to its premises to a member or a guest of the member; and

2521 (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,
 2522 sold to, served to, and consumed by a member or a guest of a member;

2523 ~~[(ii)] (II)~~ owns, maintains, or operates a substantial recreational facility in conjunction
 2524 with a club house such as:

2525 ~~[(A)] (Aa)~~ a golf course; or

2526 ~~[(B)] (Bb)~~ a tennis facility;

2527 ~~[(iii)] (III)~~ has at least 50% of the total membership having:

2528 ~~[(A)] (Aa)~~ full voting rights; and

2529 ~~[(B)] (Bb)~~ an equal share of the equity of the club; and

2530 ~~[(iv)] (IV)~~ if there is more than one class of membership, has at least one class of
 2531 membership that entitles each member in that class to:

2532 ~~[(A)] (Aa)~~ full voting rights; and

2533 ~~[(B)] (Bb)~~ an equal share of the equity of the club[-];

2534 ~~[(b) A "class B licensee" is a private club licensee that:]~~

2535 ~~[(i) meets the requirements of this chapter;]~~

2536 (B) for a fraternal club licensee, meets the following requirements:

2537 (I) whether incorporated or unincorporated:
 2538 (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal
 2539 purpose;
 2540 (Bb) has members;
 2541 (Cc) limits access to its premises to a member or a guest of the member; and
 2542 (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,
 2543 sold to, served to, and consumed by a member or a guest of a member;
 2544 ~~[(i)]~~ (II) has no capital stock;
 2545 ~~[(iii)]~~ (III) exists solely for:
 2546 ~~[(A)]~~ (Aa) the benefit of its members and their beneficiaries; and
 2547 ~~[(B)]~~ (Bb) a lawful social, intellectual, educational, charitable, benevolent, moral,
 2548 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
 2549 through voluntary activity of its members in their local lodges;
 2550 ~~[(iv)]~~ (IV) has a representative form of government; and
 2551 ~~[(v)]~~ (V) has a lodge system in which:
 2552 ~~[(A)]~~ (Aa) there is a supreme governing body;
 2553 ~~[(B)]~~ (Bb) subordinate to the supreme governing body are local lodges, however
 2554 designated, into which individuals are admitted as members in accordance with the laws of the
 2555 fraternal;
 2556 ~~[(C)]~~ (Cc) the local lodges are required by the laws of the fraternal to hold regular
 2557 meetings at least monthly; ~~and~~
 2558 ~~[(D)]~~ (Dd) the local lodges regularly engage in one or more programs involving
 2559 member participation to implement the purposes of Subsection (3)~~[(b)(iii)].~~ (a)(ii)(B)(III); and
 2560 (Ee) owns or leases a building or space in a building used for lodge activities;
 2561 (C) for a dining club licensee, meets the following requirements:
 2562 ~~[(c) A "class C licensee" is a private club licensee that:]~~
 2563 ~~[(i) meets the requirements of this chapter;]~~
 2564 ~~[(ii) is a dining club, as]~~ (I) is determined by the commission ~~[in accordance with~~
 2565 Subsection (4); and] to be a dining club licensee, as part of which the commission may
 2566 consider:
 2567 (Aa) the square footage and seating capacity of an applicant;

2568 (Bb) what portion of the square footage and seating capacity will be used for a dining
 2569 area in comparison to the portion that will be used as a bar area;

2570 (Cc) whether full meals including appetizers, main courses, and desserts are served;

2571 (Dd) whether the applicant will maintain adequate on-premise culinary facilities to
 2572 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
 2573 may use the culinary facilities of the hotel or resort facility;

2574 (Ee) whether the entertainment provided at the club is suitable for minors; and

2575 (Ff) the club management's ability to manage and operate a dining club license
 2576 including management experience, past dining club licensee or restaurant management
 2577 experience, and the type of management scheme employed by the dining club license; and

2578 [(iii)] (II) maintains at least 50% of its total [private] club business from the sale of
 2579 food, not including:

2580 [(A)] (Aa) mix for alcoholic beverages; or

2581 [(B)] (Bb) service charges[.]; or

2582 [(d) A "class D licensee" is a private club licensee that:]

2583 [(i) meets the requirements of this chapter; and]

2584 (D) for a social club licensee:

2585 [(ii) (A)] (I) does not meet the requirements of a [class A, B, or C] license under
 2586 Subsections (3)(a)(ii)(A) through (C); or

2587 [(B)] (II) seeks to qualify as a [class D] social club licensee.

2588 [(4) In determining whether an applicant is a dining club under Subsection (3)(c), the
 2589 commission:]

2590 [(a) shall determine whether the applicant maintains at least 50% of its total private
 2591 club business from the sale of food, not including:]

2592 [(i) mix for alcoholic beverages;]

2593 [(ii) service charges; or]

2594 [(iii) membership and visitor card fees; and]

2595 [(b) may consider:]

2596 [(i) the square footage and seating capacity of the applicant;]

2597 [(ii) what portion of the square footage and seating capacity will be used for a dining
 2598 area in comparison to the portion that will be used as a bar area;]

2599 ~~[(iii) whether full meals including appetizers, main courses, and desserts are served;]~~

2600 ~~[(iv) whether the applicant will maintain adequate on-premise culinary facilities to~~
 2601 ~~prepare full meals, except an applicant that is located on the premise of a hotel or resort facility~~
 2602 ~~may use the culinary facilities of the hotel or resort facility;]~~

2603 ~~[(v) whether the entertainment provided at the club is suitable for minors; and]~~

2604 ~~[(vi) the club management's ability to manage and operate a dining club including:]~~

2605 ~~[(A) management experience;]~~

2606 ~~[(B) past dining club or restaurant management experience; and]~~

2607 ~~[(C) the type of management scheme employed by the private club.]~~

2608 (b) At the time that the commission grants a club license, the commission shall
 2609 designate the type of club license for which the person qualifies.

2610 ~~[(5)] (4) (a) A [private] club licensee or [any] an officer, director, managing agent, or~~
 2611 ~~employee of a [private] club licensee may not store, sell, serve, or permit consumption of an~~
 2612 ~~alcoholic [beverages] beverage upon the premises of the club licensee, under a permit issued by~~
 2613 ~~local authority or otherwise, unless a [private] club license is first [issued] granted by the~~
 2614 ~~commission.~~

2615 (b) Violation of this Subsection ~~[(5)] (4)~~ is a class B misdemeanor.

2616 ~~[(6)] (5) (a) Subject to the other provisions of this Subsection [(6)] (5) and Subsection~~
 2617 ~~32A-4a-201(2), the commission may [issue private] grant club licenses at places and in~~
 2618 ~~numbers as the commission considers necessary.~~

2619 (b) The total number of [private] club licenses may not at any time aggregate more than
 2620 that number determined by dividing the population of the state by 7,850.

2621 (c) For purposes of this Subsection ~~[(6)] (5)~~, population shall be determined by:

2622 (i) the most recent United States decennial or special census; or

2623 (ii) another population determination made by the United States or state governments.

2624 (d) (i) The commission may issue seasonal [private] club licenses to be established in
 2625 areas the commission considers necessary[-] to:

2626 (A) a dining club licensee; or

2627 (B) a social club licensee.

2628 (ii) A seasonal [private] club license shall be for a period of six consecutive months.

2629 (iii) A [private] club license issued for operation during a summer time period is

2630 known as a "Seasonal A" [private] club license. The period of operation for a "Seasonal A"
2631 club license shall:

2632 (A) begin on May 1; and
2633 (B) end on October 31.

2634 (iv) A [private] club license issued for operation during a winter time period is known
2635 as a "Seasonal B" [private] club license. The period of operation for a "Seasonal B" club
2636 license shall:

2637 (A) begin on November 1; and
2638 (B) end on April 30.

2639 (v) In determining the number of [private] club licenses that the commission may issue
2640 under this section:

2641 (A) a seasonal [private] club license is counted as [~~1/2~~] one-half of one [private] club
2642 license; and
2643 (B) each "Seasonal A" club license shall be paired with a "Seasonal B" club license.

2644 (e) (i) If the location, design, and construction of a hotel may require more than one
2645 [private] club license location within the hotel to serve the public convenience, the commission
2646 may authorize as many as three [private] club license locations within the hotel under one club
2647 license if:

2648 (A) the hotel has a minimum of 150 guest rooms; and
2649 (B) all locations under the club license are:

2650 (I) within the same hotel facility; and
2651 (II) on premises [~~which~~] that are:

2652 (Aa) managed or operated by the club licensee; and
2653 (Bb) owned or leased by the club licensee.

2654 (ii) A facility other than a hotel may not have more than one [private] club license
2655 location under a single [private] club license.

2656 [~~(7)~~] (6) (a) Except as provided in Subsection [~~(7)~~] (6)(b), (c), or (d), the premises of a
2657 [private] club license may not be established:

2658 (i) within 600 feet of a community location, as measured by the method in Subsection
2659 [~~(7)~~] (6)(e); or
2660 (ii) within 200 feet of a community location, measured in a straight line from the

2661 nearest entrance of the proposed outlet to the nearest property boundary of the community
2662 location.

2663 (b) With respect to the establishment of a [private] club license, the commission may
2664 authorize a variance to reduce the proximity requirement of Subsection [~~(7)~~] (6)(a)(i) if:

2665 (i) the local authority grants its written consent to the variance;

2666 (ii) the commission finds that alternative locations for establishing a [private] club
2667 license in the community are limited;

2668 (iii) a public hearing is held in the city, town, or county, and where practical in the
2669 neighborhood concerned;

2670 (iv) after giving full consideration to all of the attending circumstances and the policies
2671 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2672 club license would not be detrimental to the public health, peace, safety, and welfare of the
2673 community; and

2674 (v) (A) the community location governing authority gives its written consent to the
2675 variance; or

2676 (B) when written consent is not given by the community location governing authority,
2677 the commission finds that the applicant has established that:

2678 (I) there is substantial unmet public demand to consume alcohol in a public setting
2679 within the geographic boundary of the local authority in which the [private] club licensee is to
2680 be located;

2681 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2682 described in Subsection [~~(7)~~] (6)(b)(v)(B)(I) other than through the establishment of a [private]
2683 club licensee; and

2684 (III) there is no reasonably viable alternative location within the geographic boundary
2685 of the local authority in which the [private] club licensee is to be located for establishing a
2686 [private] club license to satisfy the unmet demand described in Subsection [~~(7)~~] (6)(b)(v)(B)(I).

2687 (c) With respect to the establishment of a [private] club license, the commission may
2688 authorize a variance that reduces the proximity requirement of Subsection [~~(7)~~] (6)(a)(ii) if:

2689 (i) the community location at issue is:

2690 (A) a public library; or

2691 (B) a public park;

2692 (ii) the local authority grants its written consent to the variance;

2693 (iii) the commission finds that alternative locations for establishing a [private] club
2694 license in the community are limited;

2695 (iv) a public hearing is held in the city, town, or county, and where practical in the
2696 neighborhood concerned;

2697 (v) after giving full consideration to all of the attending circumstances and the policies
2698 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2699 [private] club license would not be detrimental to the public health, peace, safety, and welfare
2700 of the community; and

2701 (vi) (A) the community location governing authority gives its written consent to the
2702 variance; or

2703 (B) when written consent is not given by the community location governing authority,
2704 the commission finds that the applicant has established that:

2705 (I) there is substantial unmet public demand to consume alcohol in a public setting
2706 within the geographic boundary of the local authority in which the [private] club licensee is to
2707 be located;

2708 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2709 described in Subsection [(7)] (6)(c)(vi)(B)(I) other than through the establishment of a [private]
2710 club license; and

2711 (III) there is no reasonably viable alternative location within the geographic boundary
2712 of the local authority in which the [private] club licensee is to be located for establishing a
2713 [private] club license to satisfy the unmet demand described in Subsection [(7)]
2714 (6)(c)(vi)(B)(I).

2715 (d) With respect to the premises of a [private] club license issued by the commission
2716 that undergoes a change of ownership, the commission may waive or vary the proximity
2717 requirements of Subsection [(7)] (6)(a) in considering whether to grant a [private] club license
2718 to the new owner of the premises if:

2719 (i) (A) the premises previously received a variance reducing the proximity requirement
2720 of Subsection [(7)] (6)(a)(i); or

2721 (B) the premises received a variance reducing the proximity requirement of Subsection
2722 [(7)] (6)(a)(ii) on or before May 4, 2008; or

2723 (ii) a variance from proximity requirements was otherwise allowed under this title.

2724 (e) The 600 foot limitation described in Subsection ~~[(7)]~~ (6)(a)(i) is measured from the
2725 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
2726 property boundary of the community location.

2727 ~~[(8)]~~ (7) (a) Nothing in this section prevents the commission from considering the
2728 proximity of any educational, religious, and recreational facility, or any other relevant factor in
2729 reaching a decision on whether to issue a [private] club license.

2730 (b) For purposes of this Subsection ~~[(8)]~~ (7), "educational facility" includes:

2731 (i) a nursery school;

2732 (ii) infant day care center; and

2733 (iii) a trade and technical school.

2734 ~~[(9)]~~ (8) If requested by a [private] club licensee, the commission may approve a
2735 change in the [class] type of [private] club license in accordance with rules made by the
2736 commission.

2737 (9) To the extent not prohibited by law other than this chapter, this chapter does not
2738 prevent a dining club licensee or social club licensee from restricting access to the club license
2739 premises on the basis of an individual:

2740 (a) paying a fee; or

2741 (b) agreeing to being on a list of individuals who have access to the club license
2742 premises.

2743 Section 21. Section **32A-5-102** is amended to read:

2744 **32A-5-102. Application and renewal requirements.**

2745 (1) A ~~[club]~~ person seeking a [~~class A, B, C, or D~~ private] club license under this
2746 chapter shall file a written application with the department in a form prescribed by the
2747 department. The application shall be accompanied by:

2748 (a) a nonrefundable \$250 application fee;

2749 (b) an initial license fee of \$2,500, which is refundable if a club license is not granted;

2750 (c) written consent of the local authority;

2751 (d) a copy of the applicant's current business license;

2752 (e) evidence of proximity to any community location, with proximity requirements
2753 being governed by Section 32A-5-101;

- 2754 (f) evidence that the applicant operates a club where a variety of food is prepared and
2755 served in connection with dining accommodations;
- 2756 (g) a bond as specified by Section 32A-5-106;
- 2757 (h) a floor plan of the club license premises, including:
- 2758 (i) consumption areas; and
- 2759 (ii) the area where the applicant proposes to keep and store liquor;
- 2760 (i) evidence that the club is carrying public liability insurance in an amount and form
2761 satisfactory to the department;
- 2762 (j) evidence that the club is carrying dramshop insurance coverage of at least
2763 ~~[\$500,000]~~ \$1,000,000 per occurrence and ~~[\$1,000,000]~~ \$2,000,000 in the aggregate;
- 2764 (k) if the applicant is applying for an equity club license or fraternal club license, a
2765 copy of the club's bylaws or house rules, and any amendments to those documents~~[-which shall~~
2766 ~~be kept on file with the department at all times];~~
- 2767 (l) a signed consent form stating that the club licensee and its management will permit
2768 any authorized representative of the commission, department, or any law enforcement officer
2769 unrestricted right to enter the club license premises;
- 2770 (m) (i) a statement as to whether the ~~[private club]~~ applicant is seeking to qualify as [a
2771 ~~class A, B, C, or D private club licensee; and];~~
- 2772 (A) an equity club licensee;
- 2773 (B) a fraternal club licensee;
- 2774 (C) a dining club licensee; or
- 2775 (D) a social club licensee; and
- 2776 (ii) evidence that the ~~[private club]~~ applicant meets the requirements for the
2777 ~~[classification]~~ type of club license described in Subsection (1)(m)(i) for which the ~~[club]~~
2778 applicant is applying;
- 2779 (n) in the case of a partnership, corporation, or limited liability company applicant,
2780 proper verification evidencing that the person or persons signing the ~~[private]~~ club license
2781 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2782 company; and
- 2783 (o) any other information the commission or department may require.
- 2784 (2) (a) The commission may refuse to issue a club license to an applicant for an equity

2785 club licensee or fraternal club licensee if the commission determines that any provisions of the
2786 [~~club's~~] applicant's bylaws or house rules, or amendments to those documents are not:

2787 (i) reasonable; and

2788 (ii) consistent with:

2789 (A) the declared nature and purpose of the applicant; and

2790 (B) the purposes of this chapter.

2791 (b) [~~Club~~] An equity club licensee's or fraternal club licensee's bylaws or house rules
2792 shall include provisions respecting the following:

2793 (i) standards of eligibility for members;

2794 (ii) limitation of members, consistent with the nature and purpose of the [~~private~~] club;

2795 (iii) the period for which dues are paid, and the date upon which the period expires;

2796 (iv) provisions for [~~dropping members~~] removing a member from the club membership
2797 for the nonpayment of dues or other cause; and

2798 (v) provisions for guests [~~or visitors, if any, and for the issuance and use of visitor~~
2799 ~~cards~~].

2800 (c) An equity club licensee or fraternal club licensee shall keep its bylaws or house
2801 rules, and any amendments to those documents, on file with the department at all times.

2802 (3) (a) [~~All private club licenses expire~~] A club license expires on June 30 of each year.

2803 (b) A person desiring to renew that person's [~~private~~] club license shall submit by no
2804 later than May 31:

2805 (i) a completed renewal application to the department; and

2806 (ii) a renewal fee [~~in the following amount:~~] of \$1,600.

2807 [~~Gross Cost of Liquor in Previous License Year for the Licensee — Renewal Fee~~]
2808 [~~under \$10,000 ————— \$1,000~~]

2809 [~~equals or exceeds \$10,000 but less than \$25,000 ————— \$1,250~~]

2810 [~~equals or exceeds \$25,000 but less than \$75,000 ————— \$1,750~~]

2811 [~~equals or exceeds \$75,000 ————— \$2,250~~]

2812 (c) Failure to meet the renewal requirements [~~shall result~~] results in an automatic
2813 forfeiture of the club license effective on the date the existing club license expires.

2814 (d) A renewal application shall be in a form as prescribed by the department.

2815 (4) To ensure compliance with Subsection 32A-5-107[~~(40)~~] (26), the commission may

2816 suspend or revoke [~~any private~~] a club license if the [~~private~~] club licensee does not
2817 immediately notify the department of any change in:

- 2818 (a) ownership of the club licensee;
- 2819 (b) for a corporate owner, the:
 - 2820 (i) corporate officers or directors; or
 - 2821 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
 - 2822 corporation; or
- 2823 (c) for a limited liability company:
 - 2824 (i) managers; or
 - 2825 (ii) members owning at least 20% of the limited liability company.

2826 Section 22. Section **32A-5-103 (Effective 07/01/09)** is amended to read:

2827 **32A-5-103 (Effective 07/01/09). Qualifications.**

2828 (1) (a) The commission may not grant a [~~private~~] club license to a person who has been
2829 convicted of:

- 2830 (i) a felony under a federal or state law;
- 2831 (ii) a violation of a federal or state law or local ordinance concerning the sale,
2832 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
- 2833 (iii) a crime involving moral turpitude; or
- 2834 (iv) on two or more occasions within the five years before the day on which the license
2835 is granted, driving under the influence of alcohol, a drug, or the combined influence of alcohol
2836 and a drug.

2837 (b) In the case of a partnership, corporation, or limited liability company, the
2838 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
2839 offense described in Subsection (1)(a):

- 2840 (i) a partner;
- 2841 (ii) a managing agent;
- 2842 (iii) a manager;
- 2843 (iv) an officer;
- 2844 (v) a director;
- 2845 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
2846 the applicant corporation; or

2847 (vii) a member who owns at least 20% of the applicant limited liability company.

2848 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a
2849 supervisory or managerial capacity for a [private] club has been convicted of an offense
2850 described in Subsection (1)(a).

2851 (2) The commission may immediately suspend or revoke a [private] club license if
2852 after the day on which the [private] club license is granted, a person described in Subsection
2853 (1)(a), (b), or (c):

2854 (a) is found to have been convicted of an offense described in Subsection (1)(a) prior to
2855 the club license being granted; or

2856 (b) on or after the day on which the club license is granted:

2857 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

2858 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined
2859 influence of alcohol and a drug; and

2860 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
2861 influence of alcohol and a drug within five years before the day on which the person is
2862 convicted of the offense described in Subsection (2)(b)(ii)(A).

2863 (3) The director may take emergency action by immediately suspending the operation
2864 of a [private] club license according to the procedures and requirements of Title 63G, Chapter
2865 4, Administrative Procedures Act, for the period during which the criminal matter is being
2866 adjudicated if a person described in Subsection (1)(a), (b), or (c):

2867 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
2868 or

2869 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, a
2870 drug, or the combined influence of alcohol and a drug; and

2871 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined
2872 influence of alcohol and a drug within five years before the day on which the person is arrested
2873 on a charge described in Subsection (3)(b)(i).

2874 (4) (a) (i) The commission may not grant a [private] club license to a person who has
2875 had any type of license, agency, or permit issued under this title revoked within the last three
2876 years.

2877 (ii) The commission may not grant a [private] club license to an applicant that is a

2878 partnership, corporation, or limited liability company if a partner, managing agent, manager,
2879 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
2880 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
2881 company is or was:

2882 (A) a partner or managing agent of a partnership that had any type of license, agency,
2883 or permit issued under this title revoked within the last three years;

2884 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
2885 of the total issued and outstanding stock of a corporation that had any type of license, agency,
2886 or permit issued under this title revoked within the last three years; or

2887 (C) a manager or member who owns or owned at least 20% of a limited liability
2888 company that had any type of license, agency, or permit issued under this title revoked within
2889 the last three years.

2890 (b) An applicant that is a partnership, corporation, or limited liability company may not
2891 be granted a [private] club license if any of the following had any type of license, agency, or
2892 permit issued under this title revoked while acting in that person's individual capacity within
2893 the last three years:

2894 (i) a partner or managing agent of the applicant partnership;

2895 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2896 total issued and outstanding stock of the applicant corporation; or

2897 (iii) a manager or member who owned at least 20% of the applicant limited liability
2898 company.

2899 (c) A person acting in an individual capacity may not be granted a [private] club
2900 license if that person was:

2901 (i) a partner or managing agent of a partnership that had any type of license, agency, or
2902 permit issued under this title revoked within the last three years;

2903 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2904 total issued and outstanding stock of a corporation that had any type of license, agency, or
2905 permit issued under this title revoked within the last three years; or

2906 (iii) a manager or member of a limited liability company who owned at least 20% of
2907 the limited liability company that had any type of license, agency, or permit issued under this
2908 title revoked within the last three years.

2909 (5) (a) A minor may not be granted a ~~[private]~~ club license.

2910 (b) The commission may not grant a ~~[private]~~ club license to an applicant that is a
2911 partnership, corporation, or limited liability company if any of the following is a minor:

2912 (i) a partner or managing agent of the applicant partnership;

2913 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2914 total issued and outstanding stock of the applicant corporation; or

2915 (iii) a manager or member who owns at least 20% of the applicant limited liability
2916 company.

2917 (6) If a person ~~[or entity]~~ to whom a club license ~~[has been issued]~~ is granted under this
2918 chapter no longer possesses the qualifications required by this title for obtaining that license,
2919 the commission may suspend or revoke that license.

2920 (7) The commission may not grant a ~~[private]~~ club license to an applicant who is not
2921 lawfully present in the United States.

2922 Section 23. Section **32A-5-104** is amended to read:

2923 **32A-5-104. Commission and department duties before granting licenses.**

2924 (1) (a) Before a ~~[private]~~ club license may be granted by the commission, the
2925 department shall conduct an investigation and may hold public hearings for the purpose of
2926 gathering information and making recommendations to the commission as to whether or not a
2927 club license should be granted.

2928 (b) The department shall forward the information and recommendations described in
2929 Subsection (1)(a) to the commission to aid in the commission's determination.

2930 (2) Before ~~[issuing a private]~~ granting a club license, the commission shall:

2931 (a) determine that:

2932 (i) the applicant has complied with all basic qualifications and requirements for making
2933 application for a club license as provided by Sections 32A-5-102 and 32A-5-103; and

2934 (ii) the application is complete;

2935 (b) determine ~~[whether the applicant qualifies as a class A, B, C, or D private club~~
2936 ~~licensee]~~ the type of club license for which the applicant qualifies;

2937 (c) consider the locality within which the proposed ~~[private]~~ club license outlet is
2938 located including:

2939 (i) physical characteristics such as:

- 2940 (A) condition of the premises;
- 2941 (B) square footage; and
- 2942 (C) parking availability; and
- 2943 (ii) operational factors such as:
- 2944 (A) tourist traffic;
- 2945 (B) proximity to and density of other state stores, package agencies, and licensed
- 2946 outlets;
- 2947 (C) demographics;
- 2948 (D) population to be served; and
- 2949 (E) the extent of and proximity to any community location;
- 2950 (d) consider the club license management's ability to manage and operate a [private]
- 2951 club license, including:
- 2952 (i) management experience;
- 2953 (ii) past retail liquor experience; and
- 2954 (iii) the type of management scheme employed by the [private] club licensee;
- 2955 (e) consider the nature or type of [private] club [operation] operations of the proposed
- 2956 [liquor] club licensee, including:
- 2957 (i) the type of menu items offered and emphasized;
- 2958 (ii) the hours of operation;
- 2959 (iii) the seating capacity of the [facility] premises; and
- 2960 (iv) the gross sales of food items; and
- 2961 (f) consider any other factor or circumstance the commission considers necessary.
- 2962 Section 24. Section **32A-5-106** is amended to read:
- 2963 **32A-5-106. Bond.**
- 2964 (1) Each [private] club [liquor] licensee shall post a cash or corporate surety bond in
- 2965 the penal sum of \$10,000 payable to the department, which the club licensee has procured and
- 2966 must maintain for so long as the club licensee continues to operate as a [private] club [liquor]
- 2967 licensee.
- 2968 (2) The bond shall be in a form approved by the attorney general, conditioned upon
- 2969 [~~the~~] a club licensee's faithful compliance with this title and the rules of the commission.
- 2970 (3) (a) If [~~the~~] a \$10,000 corporate surety bond is canceled due to [~~the~~] a club licensee's

2971 negligence, a \$300 reinstatement fee may be assessed.

2972 (b) No part of any cash or corporate bond [~~so~~] posted under this section may be
2973 withdrawn:

2974 (i) during the period the club license is in effect[-]; or

2975 (ii) while revocation proceedings are pending against the club licensee.

2976 (c) A bond filed by a club licensee may be forfeited if the club license is finally
2977 revoked.

2978 Section 25. Section **32A-5-107** is amended to read:

2979 **32A-5-107. Operational restrictions.**

2980 A [~~club~~] person granted a [~~private~~] club license and the employees, management
2981 personnel, and members of [~~the~~] an equity club licensee or fraternal club licensee shall comply
2982 with the following conditions and requirements. Failure to comply may result in a suspension
2983 or revocation of the [~~private~~] club license or other disciplinary action taken against individual
2984 employees or management personnel.

2985 (1) [~~A private~~] An equity club licensee or fraternal club licensee shall comply with the
2986 following:

2987 (a) A club licensee shall have a governing body that:

2988 [~~(a)~~] (i) consists of three or more members of the [~~private~~] club; and

2989 [~~(b)~~] (ii) holds regular meetings to:

2990 [~~(i)~~] (A) review membership applications; and

2991 [~~(ii)~~] (B) conduct other business as required by the bylaws or house rules of the
2992 [~~private~~] club.

2993 [~~(2)~~] (a) [~~A private~~] (b) A club licensee may admit an individual as a member only on
2994 written application signed by the applicant, subject to:

2995 (i) the applicant paying an application fee [~~as required by Subsection (4)~~]; and

2996 (ii) investigation, vote, and approval of a quorum of the governing body.

2997 [~~(b)~~] (i) [~~An~~] (c) A club licensee shall:

2998 (i) record an admission of a member [~~shall be recorded~~] in the official minutes of a
2999 regular meeting of the governing body[-]; and

3000 (ii) [~~An application,~~] whether approved or disapproved, [~~shall be filed~~] file an
3001 application as a part of the official records of the [~~private~~] club licensee.

3002 ~~[(c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an~~
3003 ~~applicant and immediately accord the applicant temporary privileges of a member until the~~
3004 ~~governing body completes its investigation and votes on the application, subject to the~~
3005 ~~following conditions:]~~

3006 ~~[(i) the applicant shall:]~~

3007 ~~[(A) submit a written application; and]~~

3008 ~~[(B) pay the application fee required by Subsection (4);]~~

3009 ~~[(ii) the governing body votes on the application at its next meeting, which shall take~~
3010 ~~place no later than 31 days following the day on which the application is submitted; and]~~

3011 ~~[(iii) the applicant's temporary membership privileges terminate if the governing body~~
3012 ~~disapproves the application.]~~

3013 (d) The spouse of a member of [~~any class of private~~] a club licensee has the rights and
3014 privileges of the member:

3015 (i) to the extent permitted by the bylaws or house rules of the [~~private~~] club licensee;

3016 and

3017 (ii) except to the extent restricted by this title.

3018 (e) [~~The~~] A minor child of a member of [~~a class A private~~] a club licensee has the
3019 rights and privileges of the member:

3020 (i) to the extent permitted by the bylaws or house rules of the [~~private~~] club licensee;

3021 and

3022 (ii) except to the extent restricted by this title.

3023 ~~[(3)(a) A private]~~ (f) A club licensee shall maintain a current and complete
3024 membership record showing:

3025 (i) the date of application of a proposed member;

3026 (ii) a member's address;

3027 (iii) the date the governing body approved a member's admission;

3028 (iv) the date initiation fees and dues are assessed and paid; and

3029 (v) the serial number of the membership card issued to a member.

3030 ~~[(b) A]~~ (g) A club licensee shall keep a current record [~~shall be kept~~] indicating when
3031 a member is [~~dropped~~] removed as a member or resigns.

3032 ~~[(4)(a) A private]~~ (h) A club licensee shall establish in the [~~private~~] club licensee's

3033 bylaws or house rules application fees and membership dues[?].
 3034 ~~[(i) as established by commission rules; and]~~
 3035 ~~[(ii) that are collected from all members.]~~
 3036 ~~[(b) An application fee:]~~
 3037 ~~[(i) may not be less than \$4;]~~
 3038 ~~[(ii) shall be paid when the applicant applies for membership; and]~~
 3039 ~~[(iii) at the discretion of the private club, may be credited toward membership dues if~~
 3040 ~~the governing body approves the applicant as a member.]~~
 3041 ~~[(5)(a) A private] (i) A club licensee may, in its discretion, allow an individual to be~~
 3042 ~~admitted to or use the [private] club license premises as a guest [only under] subject to the~~
 3043 ~~following conditions:~~
 3044 ~~(i) the individual is allowed to use the club license premises only to the extent~~
 3045 ~~permitted by the club licensee's bylaws or house rules;~~
 3046 ~~[(i) a guest] (ii) the individual must be previously authorized by [one of the following]~~
 3047 ~~a member of the club who agrees to host the individual as a guest into the [private] club[?];~~
 3048 ~~[(A) an active member of the private club; or]~~
 3049 ~~[(B) a holder of a current visitor card;]~~
 3050 ~~[(ii) a guest must be known by the guest's host based on a preexisting bonafide business~~
 3051 ~~or personal relationship with the host before the guest's admittance to the private club;]~~
 3052 ~~[(iii) a guest must be accompanied by the guest's host for the duration of the guest's visit~~
 3053 ~~to the private club;]~~
 3054 ~~[(iv) a guest's host must remain on the private club premises for the duration of the~~
 3055 ~~guest's visit to the private club;]~~
 3056 ~~[(v) a guest's host is responsible for the cost of services extended to the guest;]~~
 3057 ~~[(vi) a guest] (iii) the individual has only those privileges derived from the [guest's]~~
 3058 ~~individual's host for the duration of the [guest's] individual's visit to the [private] club license~~
 3059 ~~premises; and~~
 3060 ~~[(vii) an employee of the private club, while on duty, may not act as a host for a guest;]~~
 3061 ~~[(viii) an employee of the private club, while on duty, may not attempt to locate a~~
 3062 ~~member or current visitor card holder to serve as a host for a guest with whom the member or~~
 3063 ~~visitor card holder has no acquaintance based on a preexisting bonafide business or personal~~

3064 ~~relationship prior to the guest's arrival at the private club; and]~~
3065 ~~[(ix) a private]~~ (iv) a club licensee or an employee of the [private] club licensee may
3066 not enter into an agreement or arrangement with a club member [~~or holder of a current visitor~~
3067 ~~card]~~ to indiscriminately host a member of the general public into the [private] club license
3068 premises as a guest.

3069 ~~[(b)]~~ (j) Notwithstanding Subsection [~~(5)(a), previous authorization is not required]~~
3070 (1)(i), an individual may be allowed as a guest in a club license premises without a host if:

3071 ~~[(i) the private club licensee is a class B private club; and]~~
3072 (i) (A) the club licensee is an equity club licensee; and
3073 (B) the individual is a member of an equity club licensee that has reciprocal guest
3074 privileges with the equity club licensee for which the individual is a guest; or

3075 (ii) (A) the club licensee is a fraternal club licensee; and
3076 ~~[(ii) the guest]~~ (B) the individual is a member of the same fraternal organization as the
3077 [~~private]~~ fraternal club licensee for which the individual is a guest.

3078 ~~[(6) A private club may, in its discretion, issue a visitor card to allow an individual to~~
3079 ~~enter and use the private club premises on a temporary basis under the following conditions:]~~

3080 ~~[(a) a visitor card shall be issued for a period not to exceed three weeks;]~~
3081 ~~[(b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;]~~
3082 ~~[(c) a visitor card may not be issued to a minor;]~~
3083 ~~[(d) a holder of a visitor card may not host more than seven guests at one time;]~~
3084 ~~[(e) a visitor card issued shall include:]~~

3085 ~~[(i) the visitor's full name and signature;]~~
3086 ~~[(ii) the date the visitor card is issued;]~~
3087 ~~[(iii) the date the visitor card expires;]~~
3088 ~~[(iv) the club's name; and]~~
3089 ~~[(v) the serial number of the visitor card; and]~~

3090 ~~[(f) (i) the private club shall maintain a current record of the issuance of a visitor card~~
3091 ~~on the private club premises; and]~~

3092 ~~[(ii) the record described in Subsection (6)(f)(i) shall:]~~
3093 ~~[(A) be available for inspection by the department; and]~~
3094 ~~[(B) include:]~~

3095 ~~[(I) the name of the person to whom the visitor card is issued;]~~
 3096 ~~[(H) the date the visitor card is issued;]~~
 3097 ~~[(III) the date the visitor card expires; and]~~
 3098 ~~[(IV) the serial number of the visitor card.]~~
 3099 ~~[(7) A private]~~ (k) A club licensee may not sell an alcoholic beverage to or allow a
 3100 patron to be admitted to or use the [private] club license premises other than:
 3101 ~~[(a)]~~ (i) a member; or
 3102 (ii) a guest under Subsection (1)(i) or (j).
 3103 ~~[(b) a visitor who holds a valid visitor card issued under Subsection (6); or]~~
 3104 ~~[(c) a guest of: (i) a member; or (ii) a holder of a valid visitor card.]~~
 3105 ~~[(8) (a)]~~ (l) A minor may not be ~~[(i)]~~ a member, officer, director, or trustee of a
 3106 [private] club ~~;~~ licensee.
 3107 ~~[(ii) issued a visitor card;]~~
 3108 ~~[(iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by~~
 3109 ~~commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);]~~
 3110 (m) (i) A club licensee shall maintain a minute book that is posted currently by the club
 3111 licensee.
 3112 (ii) The minute book required by this Subsection (1)(m) shall contain the minutes of a
 3113 regular or special meeting of the governing body.
 3114 (n) A club licensee shall maintain a membership list.
 3115 (o) A club licensee shall maintain a current copy of the club licensee's current bylaws
 3116 and current house rules.
 3117 (p) Public advertising related to a club licensee by the following shall clearly identify a
 3118 club as being "a club for members":
 3119 (i) the club licensee;
 3120 (ii) an employee or agent of the club licensee; or
 3121 (iii) a person under a contract or agreement with the club licensee.
 3122 ~~[(iv) admitted into, use, or be on the premises of a class D private club;]~~
 3123 ~~[(A) that operates as a sexually oriented business as defined by local ordinance; or]~~
 3124 ~~[(B) when a sexually oriented entertainer is performing on the premises; or]~~
 3125 ~~[(v) admitted into, use, or be on the premises of a class D private club except to the~~

3126 extent authorized under Subsections (8)(b) through (g):]

3127 ~~[(b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private~~
3128 ~~club, a minor may be admitted into, use, or be on the premises of a class D private club under~~
3129 ~~the following circumstances:]~~

3130 ~~[(i) during a period when no alcoholic beverages are sold, served, otherwise furnished,~~
3131 ~~or consumed on the premises, but in no event later than 1 p.m.;~~]

3132 ~~[(ii) when accompanied at all times by a member or holder of a current visitor card~~
3133 ~~who is the minor's parent, legal guardian, or spouse; and]~~

3134 ~~[(iii) the private club has a full kitchen and is licensed by the local jurisdiction as a~~
3135 ~~food service provider.]~~

3136 ~~[(c) A class D private club may employ a minor on the premises of the private club if:]~~

3137 ~~[(i) the parent or legal guardian of the minor owns or operates the class D private club;~~
3138 ~~or]~~

3139 ~~[(ii) the minor performs maintenance and cleaning services during the hours when the~~
3140 ~~private club is not open for business.]~~

3141 (2) (a) A minor may not be admitted into, use, or be on:

3142 (i) a lounge or bar area, as defined by commission rule, of the premises of:

3143 (A) an equity club licensee;

3144 (B) a fraternal club licensee; or

3145 (C) a dining club licensee; or

3146 (ii) the premises of a social club licensee, except to the extent provided for under
3147 Subsection (2)(d).

3148 (b) (i) Except as provided in Subsection (2)(b)(ii), a club licensee may not employ a
3149 minor to:

3150 (A) sell, dispense, or handle an alcoholic beverage; or

3151 (B) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or
3152 dining club licensee.

3153 (ii) An equity club licensee or dining club licensee may employ a minor who is at least
3154 16 years of age to enter the sale at a cash register or other sales recording device, except that a
3155 minor may not work in a lounge or bar area of the club licensee.

3156 (c) A minor may not be employed on the premises of a social club licensee.

3157 (d) (i) ~~[Subject to Subsection (8)(d)(ii), a]~~ A minor who is at least 18 years of age may
3158 be admitted into, use, or be on the premises of a dance or concert hall if:

3159 (A) the dance or concert hall is located:

3160 (I) on the premises of a ~~[class D private]~~ social club licensee; or

3161 (II) on the property that immediately adjoins the premises of and is operated by a ~~[class~~
3162 ~~D private]~~ social club licensee; and

3163 (B) the social club licensee holds a permit to operate a dance or concert hall that was
3164 granted on or before May 11, 2009:

3165 (I) on the basis of the operational requirements described in Subsection (2)(d)(ii); and
3166 (II) when the social club licensee was licensed as a class D private club.

3167 ~~[(B) the commission issues the class D private club a permit to operate a minor dance~~
3168 ~~or concert hall based on the criteria described in Subsection (8)(d)(iii).]~~

3169 ~~[(ii) If the dance or concert hall is located on the premises of a class D private club, a~~
3170 ~~minor must be properly hosted in accordance with Subsection (5) by:]~~

3171 ~~[(A) a member; or]~~

3172 ~~[(B) a holder of a current visitor card.]~~

3173 ~~[(iii) The commission may issue a minor dance or concert hall permit if:]~~

3174 (ii) A social club licensee that holds a dance or concert hall permit shall operate in such
3175 a way that:

3176 (A) the ~~[private club's]~~ social club licensee's lounge, bar, [and] or other area for
3177 alcoholic beverage consumption [area] is:

3178 (I) not accessible to a minor;

3179 (II) clearly defined; and

3180 (III) separated from the dance or concert hall area by one or more walls, multiple floor
3181 levels, or other substantial physical barriers;

3182 (B) a bar or dispensing area is not visible to a minor;

3183 (C) consumption of an alcoholic beverage may not occur in:

3184 (I) the dance or concert hall area; or

3185 (II) an area of the ~~[private]~~ social club license premises accessible to a minor;

3186 (D) the ~~[private]~~ social club licensee maintains sufficient security personnel to prevent
3187 the passing of beverages from the ~~[private club's]~~ social club licensee's lounge, bar, or [an]

3188 other area for alcoholic beverage consumption [~~area~~] to:

3189 (I) the dance or concert hall area; or

3190 (II) an area of the [~~private~~] social club licensee premises accessible to a minor;

3191 (E) there are one or more separate entrances, exits, and restroom facilities from the

3192 [~~private club's~~] social club licensee's lounge, bar, [~~and~~] or other area for alcoholic beverage
3193 consumption [~~areas~~] than for:

3194 (I) the dance or concert hall area; or

3195 (II) an area accessible to a minor; and

3196 (F) the [~~private~~] social club licensee complies with any other restrictions imposed by
3197 the commission by rule.

3198 [~~(e)~~] (iii) A minor under 18 years of age who is accompanied at all times by a parent or
3199 legal guardian [~~who is a member or holder of a current visitor card~~] may be admitted into, use,
3200 or be on the premises of a concert hall described in Subsection [~~(8)(d)(i)~~] (2)(d)(ii) if:

3201 [(i)] (A) the requirements of Subsection [~~(8)~~] (2)(d) are met; and

3202 [(ii)] (B) signage, product, and dispensing equipment containing recognition of an
3203 alcoholic beverage is not visible to the minor.

3204 [(f)] (iv) A minor under 18 years of age but who is 14 years of age or older who is not
3205 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
3206 a concert hall described in Subsection [~~(8)(d)(i)~~] (2)(d)(ii) if:

3207 [(i)] (A) the requirements of Subsections [~~(8)(d)~~ and (8)(e)(ii)] (2)(d)(ii) and (iii) are
3208 met; and

3209 [(ii)] (B) there is no alcoholic beverage, sales, service, or consumption on the premises
3210 of the [~~class D private~~] social club licensee.

3211 [(g)] (v) The commission may suspend or revoke a [~~minor~~] dance or concert permit
3212 issued to a [~~class D private~~] social club licensee and suspend or revoke the license of the [~~class~~
3213 ~~D private~~] social club licensee if:

3214 [(i)] (A) the [~~private~~] social club licensee fails to comply with the restrictions in this
3215 Subsection [~~(8)(d), (e), or (f)~~] (2)(d);

3216 [(ii)] (B) the [~~private~~] social club licensee sells, serves, or otherwise furnishes an
3217 alcoholic beverage to a minor;

3218 [(iii)] (C) the [~~private~~] social club licensee or a supervisory or managerial level

3219 employee of the [~~private~~] social club licensee is convicted under Title 58, Chapter 37, Utah
3220 Controlled Substances Act, on the basis of an activity that occurs on:

3221 [~~(A)~~] (I) the licensed premises; or

3222 [~~(B)~~] (II) the dance or concert hall that is located on property that immediately adjoins
3223 the premises of and is operated by the [~~class-D-private~~] social club licensee;

3224 [~~(iv)~~] (D) there are three or more convictions of patrons of the [~~private~~] social club
3225 licensee under Title 58, Chapter 37, Utah Controlled Substances Act, [~~based on~~] on the basis of
3226 activities that occur on:

3227 [~~(A)~~] (I) the licensed premises; or

3228 [~~(B)~~] (II) the dance or concert hall that is located on property that immediately adjoins
3229 the premises of and is operated by the [~~class-D-private~~] social club licensee;

3230 [~~(v)~~] (E) there is more than one conviction:

3231 [~~(A)~~] (I) of:

3232 [~~(F)~~] (Aa) the [~~private~~] social club licensee;

3233 [~~(H)~~] (Bb) an employee of the [~~private~~] social club licensee;

3234 [~~(H)~~] (Cc) an entertainer contracted by the [~~private~~] social club licensee; or

3235 [~~(IV)~~] (Dd) a patron of the [~~private~~] social club licensee; and

3236 [~~(B)~~] (II) made on the basis of a lewd act or lewd entertainment prohibited by this title
3237 that occurs on:

3238 [~~(F)~~] (A) the licensed premises; or

3239 [~~(H)~~] (B) the dance or concert hall that is located on property that immediately adjoins
3240 the premises of and is operated by the [~~class-D-private~~] social club licensee; or

3241 [~~(vi)~~] (F) the commission finds acts or conduct contrary to the public welfare and
3242 morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:

3243 [~~(A)~~] (I) the licensed premises; or

3244 [~~(B)~~] (II) the dance or concert hall that is located on property that immediately adjoins
3245 the premises of and is operated by the [~~class-D-private~~] social club licensee.

3246 [~~(h)~~] (vi) Nothing in this Subsection [~~(8)~~] (2) prohibits a [~~class-D-private~~] social club
3247 licensee from selling, serving, or otherwise furnishing an alcoholic beverage in a dance or
3248 concert area located on the [~~private~~] social club license premises on days and times when the
3249 [~~private~~] social club licensee does not allow a minor into those areas.

3250 ~~[(i)]~~ (e) Nothing in ~~[Subsections (8)(a) through (g)]~~ this Subsection (2) precludes a
 3251 local authority from being more restrictive of a minor's admittance to, use of, or presence on
 3252 the premises of a ~~[private]~~ club licensee.

3253 ~~[(9)]~~ (3) (a) A ~~[private]~~ club licensee shall maintain an expense ledger or record showing
 3254 in detail ~~[aH]~~:

3255 (i) quarterly expenditures separated by payments for:

3256 ~~[(i)]~~ (A) malt or brewed beverages;

3257 ~~[(ii)]~~ (B) liquor;

3258 ~~[(iii)]~~ (C) food;

3259 ~~[(iv) detailed payroll;]~~

3260 ~~[(v) entertainment;]~~

3261 ~~[(vi) rent;]~~

3262 ~~[(vii) utilities;]~~

3263 ~~[(viii) supplies; and]~~

3264 ~~[(ix) other expenditures.]~~

3265 (D) set-ups; and

3266 (E) any other item required by the department; and

3267 (ii) sales made separately for:

3268 (A) malt or brewed beverages;

3269 (B) liquor;

3270 (C) food;

3271 (D) set-ups; and

3272 (E) any other item required by the department.

3273 (b) A ~~[private]~~ club licensee shall keep a record required by this Subsection ~~[(9)]~~ (3):

3274 (i) in a form approved by the department; and

3275 ~~[(ii) balanced each month.]~~

3276 (ii) current for each three-month period.

3277 (c) An expenditure of a club licensee shall be supported by:

3278 (i) a delivery ticket;

3279 (ii) an invoice;

3280 (iii) a receipted bill;

3281 (iv) a canceled check;
3282 (v) a petty cash voucher; or
3283 (vi) other sustaining datum or memorandum.
3284 [~~(d) An invoice or receipted bill for the current calendar or fiscal year documenting a~~
3285 ~~purchase made by the private club shall be maintained.]~~
3286 [(10) (a) A private club shall maintain a minute book that is posted currently by the
3287 private club.]
3288 [(b) The minute book required by this Subsection (10) shall contain the minutes of a
3289 regular or special meeting of the governing body.]
3290 [(c) A private club shall maintain a membership list.]
3291 [(11) (a) A private club shall maintain a current copy of the private club's current
3292 bylaws and current house rules.]
3293 [(b) A change in the bylaws or house rules:]
3294 [(i) is not effective unless submitted to the department within ten days after adoption;
3295 and]
3296 [(ii) becomes effective 15 days after received by the department unless rejected by the
3297 department before the expiration of the 15-day period.]
3298 [(12) A private club] (d) In addition to a ledger or record required by Subsection (3)(a),
3299 a club licensee shall maintain accounting and other records and documents as the department
3300 may require.
3301 [(13)] (e) A [private] club licensee or person acting for the [private] club licensee, who
3302 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of
3303 account or other document of the [private] club licensee required to be made, maintained, or
3304 preserved by this title or the rules of the commission for the purpose of deceiving the
3305 commission, the department, or an official or employee of the commission or department, is
3306 subject to:
3307 [(a)] (i) the suspension or revocation of the [private club's] club license; and
3308 [(b)] (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
3309 [(14) (a)] (f) A [private] club licensee shall maintain and keep a record required by this
3310 section and a book, record, receipt, or disbursement maintained or used by the club licensee, as
3311 the department requires, for a minimum period of three years.

3312 ~~[(b)]~~ (g) A record, book, receipt, or disbursement is subject to inspection by an
3313 authorized representative of the commission and the department.

3314 ~~[(c)]~~ (h) A [~~private~~] club licensee shall allow the department, through an auditor or
3315 examiner of the department, to audit the records of the [~~private~~] club licensee at times the
3316 department considers advisable.

3317 ~~[(d)]~~ (i) The department shall audit the records of the [~~private~~] club licensee at least
3318 once annually.

3319 ~~[(15)]~~ (4) (a) A [~~private~~] club licensee shall own or lease premises suitable for the
3320 [~~private club's~~] club licensee's activities.

3321 ~~[(16)]~~ (a) (b) A [~~private~~] club licensee may not maintain [~~facilities~~] premises in a
3322 manner that barricades or conceals the [~~private~~] club licensee's operation.

3323 ~~[(b)]~~ (c) A member of the commission, authorized department personnel, or a peace
3324 officer shall, upon presentation of credentials, be admitted immediately to the [~~private~~] club
3325 license premises and permitted without hindrance or delay to inspect completely the entire
3326 [~~private~~] club license premises and the books and records of the [~~private~~] club licensee, at any
3327 time during which the [~~private~~] club licensee is open for the transaction of business to its
3328 members.

3329 ~~[(17) Public advertising related to a private club licensee by the following shall clearly
3330 identify a private club as being "a private club for members":]~~

3331 ~~[(a) the private club licensee;]~~

3332 ~~[(b) an employee or agent of the private club licensee; or]~~

3333 ~~[(c) a person under a contract or agreement with the private club licensee.]~~

3334 ~~[(18) A private]~~ (5) A club licensee must have food available at all times when an
3335 alcoholic beverage is sold, served, or consumed on the premises.

3336 ~~[(19)]~~ (6) (a) [~~Liquor may not be purchased by a private~~] A club licensee may not
3337 purchase liquor except from a state store or package agency.

3338 (b) Liquor purchased from a state store or package agency may be transported by the
3339 [~~private~~] club licensee from the place of purchase to the licensed premises.

3340 (c) Payment for liquor shall be made in accordance with rules established by the
3341 commission.

3342 ~~[(20)]~~ (7) A [~~private~~] club licensee may sell or provide a primary spirituous liquor only

3343 in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
3344 dispensing system approved by the department in accordance with commission rules adopted
3345 under this title, except that:

3346 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3347 system if used as a secondary flavoring ingredient in a beverage subject to the following
3348 restrictions:

3349 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
3350 a primary spirituous liquor;

3351 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

3352 (iii) the [private] club licensee shall designate a location where flavorings are stored on
3353 the floor plan provided to the department; and

3354 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

3355 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3356 system if used:

3357 (i) as a flavoring on a dessert; and

3358 (ii) in the preparation of a flaming food dish, drink, or dessert;

3359 (c) a [private] club licensee patron may have no more than 2.5 ounces of spirituous
3360 liquor at a time before the [private] club licensee patron[-]; and

3361 (d) a [private] club licensee patron may have no more than two spirituous liquor drinks
3362 at a time before the [private] club licensee patron, except that a [private] club licensee patron
3363 may not have two spirituous liquor drinks before the [private] club licensee patron if one of the
3364 spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous
3365 liquor drink.

3366 ~~[(21)]~~ (8) (a) (i) Wine may be sold and served by the glass or an individual portion not
3367 to exceed five ounces per glass or individual portion.

3368 (ii) An individual portion may be served to a patron in more than one glass as long as
3369 the total amount of wine does not exceed five ounces.

3370 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3371 Subsection ~~[(25)]~~ (12)(c).

3372 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
3373 fixed by the commission to a table of four or more persons.

3374 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
3375 fixed by the commission to a table of less than four persons.

3376 (c) A wine service may be performed and a service charge assessed by the [private]
3377 club licensee as authorized by commission rule for wine purchased at the [private] club license
3378 premises.

3379 [(22)] (9) (a) Heavy beer may be served in an original container not exceeding one liter
3380 at a price fixed by the commission.

3381 (b) A flavored malt beverage may be served in an original container not exceeding one
3382 liter at a price fixed by the commission.

3383 (c) A service charge may be assessed by the [private] club licensee for heavy beer or a
3384 flavored malt beverage purchased at the [private] club license premises.

3385 [(23)] (10) (a) (i) Subject to Subsection [(23)] (10)(a)(ii), a [private] club licensee may
3386 sell beer for on-premise consumption:

3387 (A) in an open container; and

3388 (B) on draft.

3389 (ii) Beer sold pursuant to Subsection [(23)] (10)(a)(i) shall be in a size of container that
3390 does not exceed two liters, except that beer may not be sold to an individual patron in a size of
3391 container that exceeds one liter.

3392 (b) (i) A [private] club licensee that sells beer pursuant to Subsection [(23)] (10)(a):

3393 (A) may do so without obtaining a separate on-premise beer retailer license from the
3394 commission; and

3395 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
3396 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
3397 inconsistent with or less restrictive than the operational restrictions under this chapter.

3398 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3399 Licenses, required by Subsection [(23)] (10)(b)(i) may result in a suspension or revocation of
3400 the [private club's] club licensee's:

3401 (A) state liquor license; and

3402 (B) alcoholic beverage license issued by the local authority.

3403 [(24)] (11) An alcoholic beverage may not be stored, served, or sold in a place other
3404 than as designated in the [private] club licensee's application, unless the [private] club licensee

3405 first applies for and receives approval from the department for a change of location within the
3406 [~~private~~] club license.

3407 [~~(25)~~] (12) (a) A patron may only make an alcoholic beverage purchase in the [~~private~~]
3408 club license premises from and be served by a person employed, designated, and trained by the
3409 [~~private~~] club licensee to sell, dispense, and serve an alcoholic beverage.

3410 (b) Notwithstanding Subsection [~~(25)~~] (12)(a), a patron who purchases bottled wine
3411 from an employee of the [~~private~~] club licensee or carries bottled wine onto the premises of the
3412 [~~private~~] club licensee pursuant to Subsection [~~(31)~~] (18) may thereafter serve wine from the
3413 bottle to the patron or others at the patron's table.

3414 (c) A [~~private~~] club licensee patron may have no more than two alcoholic beverages of
3415 any kind at a time before the [~~private~~] club licensee patron, subject to the limitation of
3416 Subsection [~~(20)~~] (7)(d).

3417 [~~(26)~~] (13) The liquor storage area shall remain locked at all times other than those
3418 hours and days when liquor sales and service are authorized by law.

3419 [~~(27)~~] (14) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished
3420 at a [~~private~~] club license premises on any day after 1 a.m. or before 10 a.m.

3421 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
3422 Licenses, for on-premise beer licenses.

3423 (c) (i) Notwithstanding Subsections [~~(27)~~] (14)(a) and (b), a [~~private~~] club license
3424 premises shall remain open for one hour after the [~~private~~] club licensee ceases the sale and
3425 service of an alcoholic beverage during which time a patron of the [~~private~~] club licensee may
3426 finish consuming:

- 3427 (A) a single drink containing spirituous liquor;
3428 (B) a single serving of wine not exceeding five ounces;
3429 (C) a single serving of heavy beer;
3430 (D) a single serving of beer not exceeding 26 ounces; or
3431 (E) a single serving of a flavored malt beverage.

3432 (ii) A [~~private~~] club licensee is not required to remain open:

- 3433 (A) after all patrons have vacated the premises; or
3434 (B) during an emergency.

3435 (d) Between the hours of 2 a.m. and 10 a.m. on any day a [~~private~~] club licensee may

3436 not allow a patron to remain on the premises of the [private] club licensee to consume an
3437 alcoholic beverage on the premises.

3438 [~~28~~] (15) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

3439 (a) minor;

3440 (b) person actually, apparently, or obviously intoxicated;

3441 (c) known habitual drunkard; or

3442 (d) known interdicted person.

3443 [~~29~~] (16) (a) (i) Liquor may be sold only at a price fixed by the commission.

3444 (ii) Liquor may not be sold at a discount price on any date or at any time.

3445 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
3446 beverage to the [private] club licensee.

3447 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
3448 over consumption or intoxication.

3449 (d) The price of a single serving of a primary spirituous liquor shall be the same
3450 whether served as a single drink or in conjunction with another alcoholic beverage.

3451 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
3452 hours of the [private club's] club licensee's business day such as a "happy hour."

3453 (f) More than one alcoholic beverage may not be sold or served for the price of a single
3454 alcoholic beverage.

3455 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
3456 during a set period for a fixed price.

3457 (h) A [private] club licensee may not engage in a promotion involving or offering free
3458 alcoholic beverages to patrons of the [private] club licensee.

3459 [~~30~~] (17) An alcoholic beverage may not be purchased for a patron of the [private]
3460 club licensee by:

3461 (a) the [private] club licensee; or

3462 (b) an employee or agent of the [private] club licensee.

3463 [~~31~~] (18) (a) A person may not bring onto the premises of a [private] club licensee an
3464 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
3465 discretion of the club licensee, bottled wine onto the premises of a [private] club licensee for
3466 on-premise consumption.

3467 (b) Except bottled wine under Subsection [(31)] (18)(a), a [private] club licensee or an
3468 officer, manager, employee, or agent of a [private] club licensee may not allow:

3469 (i) a person to bring onto the [private] club license premises an alcoholic beverage for
3470 consumption on the [private] club license premises; or

3471 (ii) consumption of an alcoholic beverage described in Subsection [(31)] (18)(b)(i) on
3472 the premises of the [private] club licensee.

3473 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
3474 or other representative of the [private] club licensee upon entering the [private] club license
3475 premises.

3476 (d) A wine service may be performed and a service charge assessed by the [private]
3477 club licensee as authorized by commission rule for wine carried in by a patron.

3478 [(32)] (19) (a) Except as provided in Subsection [(32)] (19)(b), a [private] club licensee
3479 or an employee of the [private] club licensee may not permit a patron of the [private] club
3480 licensee to carry from the [private] club license premises an open container that:

3481 (i) is used primarily for drinking purposes; and

3482 (ii) contains an alcoholic beverage.

3483 (b) A patron may remove the unconsumed contents of a bottle of wine if before
3484 removal, the bottle is recorked or recapped.

3485 ~~[(33)] (a) A minor may not be employed by a class A, B, or C private club licensee to~~
3486 ~~sell, dispense, or handle an alcoholic beverage.]~~

3487 ~~[(b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may~~
3488 ~~be employed by a class A or C private club licensee to enter the sale at a cash register or other~~
3489 ~~sales recording device.]~~

3490 ~~[(c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed~~
3491 ~~by or be on the premises of a class D private club.]~~

3492 ~~[(d) A minor may not be employed to work in a lounge or bar area of a class A, B, or C~~
3493 ~~private club licensee.]~~

3494 [(34)] (20) An employee of a [private] club licensee, while on duty, may not:

3495 (a) consume an alcoholic beverage; or

3496 (b) be intoxicated.

3497 [(35)] (21) A [private] club licensee shall have available on the premises for a patron to

3498 review at the time that the [customer] patron requests it, a written alcoholic beverage price list
3499 or a menu containing the price of an alcoholic beverage sold or served by the [private] club
3500 licensee including:

- 3501 (a) a set-up charge;
- 3502 (b) a service charge; or
- 3503 (c) a chilling fee.

3504 [~~36~~] (22) A [private] club licensee shall display in a prominent place in the [private]
3505 club license premises:

- 3506 (a) the [private] club license that is issued by the department;
- 3507 (b) a list of the types and brand names of liquor being served through [its] the club
3508 licensee's calibrated metered dispensing system; and
- 3509 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3510 drugs is a serious crime that is prosecuted aggressively in Utah."

3511 [~~37~~] (23) A [private] club licensee may not on the premises of the [private] club
3512 licensee:

- 3513 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3514 Chapter 10, Part 11, Gambling;
- 3515 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3516 Part 11, Gambling; or
- 3517 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3518 the risking of something of value for a return or for an outcome when the return or outcome is
3519 based upon an element of chance, excluding the playing of an amusement device that confers
3520 only an immediate and unrecorded right of replay not exchangeable for value.

3521 [~~38~~] (24) (a) A [private] club licensee may not close or cease operation for a period
3522 longer than 240 hours, unless:

- 3523 (i) the [private] club licensee notifies the department in writing at least seven days
3524 before the day on which the [private] club licensee closes or ceases operation; and
- 3525 (ii) the closure or cessation of operation is first approved by the department.
- 3526 (b) Notwithstanding Subsection [~~38~~] (24)(a), in the case of emergency closure, the
3527 [private] club licensee shall immediately notify the department by telephone.

3528 (c) (i) The department may authorize a closure or cessation of operation for a period

3529 not to exceed 60 days.

3530 (ii) The department may extend the initial period an additional 30 days upon:

3531 (A) written request of the [private] club licensee; and

3532 (B) a showing of good cause.

3533 (iii) A closure or cessation of operation may not exceed a total of 90 days without
3534 commission approval.

3535 (d) The notice required by Subsection [~~38~~] (24)(a) shall include:

3536 (i) the dates of closure or cessation of operation;

3537 (ii) the reason for the closure or cessation of operation; and

3538 (iii) the date on which the [private] club licensee will reopen or resume operation.

3539 (e) Failure of the [private] club licensee to provide notice and to obtain department
3540 authorization before closure or cessation of operation results in an automatic forfeiture of:

3541 (i) the [private] club license; and

3542 (ii) the unused portion of the [private] club license fee for the remainder of the license
3543 year effective immediately.

3544 (f) Failure of the [private] club licensee to reopen or resume operation by the approved
3545 date results in an automatic forfeiture of:

3546 (i) the [private] club license; and

3547 (ii) the unused portion of the [private] club license fee for the remainder of the license
3548 year.

3549 [~~39~~] (25) A [private] club license may not be transferred from one location to another
3550 [person] location, without prior written approval of the commission.

3551 [~~40~~] (26) (a) A [private] club licensee, may not sell, transfer, assign, exchange, barter,
3552 give, or attempt in any way to dispose of the [private] club license to another person, whether
3553 for monetary gain or not.

3554 (b) A [private] club license has no monetary value for the purpose of any type of
3555 disposition.

3556 (27) Subject to Subsections (25) and (26), a club licensee may not temporarily rent or
3557 otherwise temporarily lease its premises to a person unless:

3558 (a) the person to whom the club licensee rents or leases the premises agrees in writing
3559 to comply with this section as if the person is the club licensee, except for a requirement related

3560 to maintaining a book, document, or similar record; and

3561 (b) the club licensee takes reasonable steps to ensure that the person complies with this
3562 section as provided in Subsection (26)(a).

3563 (28) A dining club licensee or social club licensee shall comply with Section
3564 32A-1-304.5.

3565 ~~[(41)]~~ (29) A [~~private~~] club licensee or an employee of the [~~private~~] club licensee may
3566 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
3567 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3568 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3569 58-37-2; or

3570 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3571 Section 58-37a-3.

3572 Section 26. Section **32A-5-109** is enacted to read:

3573 **32A-5-109. Transition in types of clubs.**

3574 (1) (a) If a private club licensee is a class C private club licensee as of June 30, 2009, it
3575 renews its license in accordance with Section 32A-5-102, and it continues to meet the
3576 qualifications of a class C private club licensee:

3577 (i) the class C private club licensee shall pay a renewal fee of \$1,600; and

3578 (ii) effective July 1, 2009, the class C private club licensee is automatically converted
3579 to a dining club licensee.

3580 (b) If a private club licensee is a class D private club licensee as of June 30, 2009, it
3581 renews its license in accordance with Section 32A-5-102, and it continues to meet the
3582 qualifications of a class D private club licensee:

3583 (i) the class D private club licensee shall pay a renewal fee of \$1,600; and

3584 (ii) effective July 1, 2009, the class D private club licensee is automatically converted
3585 to a social club licensee.

3586 (c) Notwithstanding Subsection (1)(a) or (b), if at the time of renewal a class C private
3587 club licensee or class D private club licensee requests to convert effective July 1, 2009, to a
3588 different type of club license than that provided in Subsection (1)(a) or (b), the commission
3589 may approve a change in the type of club license in accordance with rules made by the
3590 commission.

3591 (2) A conversion under this section does not require a redetermination of applicable
3592 proximity requirements.

3593 Section 27. Section **32A-10-202** is amended to read:

3594 **32A-10-202. Application and renewal requirements.**

3595 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
3596 written application with the department, in a form prescribed by the department. The
3597 application shall be accompanied by:

3598 (a) a nonrefundable \$250 application fee;

3599 (b) an initial license fee that is refundable if a license is not granted in the following
3600 amount:

3601 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
3602 license fee is \$150; or

3603 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
3604 \$1,250;

3605 (c) written consent of the local authority or a license to sell beer at retail for on-premise
3606 consumption granted by the local authority under Section 32A-10-101;

3607 (d) a copy of the applicant's current business license;

3608 (e) evidence of proximity to any community location, with proximity requirements
3609 being governed by Section 32A-10-201;

3610 (f) a bond as specified by Section 32A-10-205;

3611 (g) a floor plan of the premises, including consumption areas and the area where the
3612 applicant proposes to keep, store, and sell beer;

3613 (h) evidence that the on-premise beer retailer licensee is carrying public liability
3614 insurance in an amount and form satisfactory to the department;

3615 (i) for a licensee that sells more than \$5,000 of beer annually, evidence that the
3616 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least
3617 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

3618 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
3619 any authorized representative of the commission, department, or any peace officer unrestricted
3620 right to enter the licensee premises;

3621 (k) in the case of an applicant that is a partnership, corporation, or limited liability

3622 company, proper verification evidencing that the person or persons signing the on-premise beer
3623 retailer licensee application are authorized to so act on the behalf of the partnership,
3624 corporation, or limited liability company; and

3625 (1) any other information the department may require.

3626 (2) (a) ~~[AH] An~~ An on-premise beer retailer ~~[licenses expire]~~ license expires on the last
3627 day of February of each year.

3628 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
3629 person's on-premise beer retailer license shall submit by no later than January 31:

3630 (A) a completed renewal application to the department; and

3631 (B) a renewal fee in the following amount:

3632 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
3633 is \$200; or

3634 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
3635 \$1,000.

3636 (ii) A licensee is not required to submit a renewal fee if the licensee is:

3637 (A) a state agency; or

3638 (B) a political subdivision of the state including:

3639 (I) a county; or

3640 (II) a municipality.

3641 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3642 the license, effective on the date the existing license expires.

3643 (d) A renewal statement shall be in a form as prescribed by the department.

3644 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
3645 suspend or revoke a beer retailer license if a beer retailer licensee does not immediately notify
3646 the department of any change in:

3647 (a) ownership of the beer retailer;

3648 (b) for a corporate owner, the:

3649 (i) corporate officers or directors; and

3650 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3651 corporation; or

3652 (c) for a limited liability company:

- 3653 (i) managers; or
- 3654 (ii) members owning at least 20% of the limited liability company.
- 3655 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
- 3656 (f) if the applicant is:
- 3657 (a) a state agency; or
- 3658 (b) a political subdivision of the state including:
- 3659 (i) a county; or
- 3660 (ii) a municipality.
- 3661 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
- 3662 license is required for each building or resort facility owned or leased by the same applicant.
- 3663 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
- 3664 retail beer dispensing outlet located in the same building or on the same resort premises owned
- 3665 or operated by the same applicant.
- 3666 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
- 3667 in the building or resort facility operate in the same manner.
- 3668 (ii) If the condition described in Subsection (5)(c)(i) is not met:
- 3669 (A) one state on-premise beer retailer tavern license is required for all outlets in the
- 3670 same building or on the same resort premises that operate as a tavern; and
- 3671 (B) one state on-premise beer retailer license is required for all outlets in the same
- 3672 building or on the same resort premises that do not operate as a tavern.
- 3673 Section 28. Section **32A-12-102** is amended to read:
- 3674 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**
- 3675 (1) In [~~any~~] a prosecution of an offense defined in this title or in [~~any~~] a proceeding
- 3676 brought to enforce this title:
- 3677 (a) it is not necessary that the state or commission establish:
- 3678 (i) the precise description or quantity of [~~the~~] an alcoholic [~~beverages~~] beverage or
- 3679 alcoholic product; or [~~products or~~]
- 3680 (ii) the precise consideration, if any, given or received for [~~the~~] an alcoholic [~~beverages~~
- 3681 or products] beverage or alcoholic product;
- 3682 (b) there is an inference, absent proof to the contrary, that [~~the~~] an alcoholic beverage
- 3683 or alcoholic product in question is an alcoholic beverage or alcoholic product if the witness

3684 describes it:

3685 (i) as an alcoholic beverage or alcoholic product;

3686 (ii) by a name that is commonly applied to an alcoholic beverage or alcoholic product;

3687 or

3688 (iii) as intoxicating;

3689 (c) if it is alleged that an association or corporation has violated this title, the fact of the
3690 incorporation of the association or corporation is presumed absent proof to the contrary;

3691 (d) a certificate or report signed or purporting to be signed by any state chemist,
3692 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of
3693 ~~[any]~~ an alcoholic beverage or alcoholic product is:

3694 (i) prima facie evidence:

3695 (A) of the facts stated in that certificate or report; and

3696 (B) of the authority of the person giving or making the report; and

3697 (ii) admissible in evidence without any proof of appointment or signature absent proof
3698 to the contrary; and

3699 (e) a copy of entries made in the records of the United States internal revenue collector,
3700 certified by the collector or a qualified notary public, showing the payment of the United States
3701 internal revenue special tax for the manufacture or sale of an alcoholic ~~[beverages or products]~~
3702 beverage or alcoholic product is prima facie evidence of the manufacture or sale by the party
3703 named in the entry within the period set forth in the record.

3704 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,
3705 or consumption of an alcoholic ~~[beverages or products]~~ beverage or alcoholic product, it is not
3706 necessary that the state or commission establish that any money or other consideration actually
3707 passed or that an alcoholic beverage or alcoholic product was actually consumed if the court or
3708 trier of fact is satisfied that:

3709 (i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or

3710 (ii) ~~[any]~~ consumption of an alcoholic ~~[beverages or products]~~ beverage or alcoholic
3711 product was about to occur.

3712 (b) Proof of consumption or intended consumption of an alcoholic beverage or
3713 alcoholic product on premises on which consumption is prohibited, by some person not
3714 authorized to consume an alcoholic ~~[beverages or products]~~ beverage or alcoholic product on

3715 those premises, is evidence that an alcoholic beverage or alcoholic product was sold or given to
3716 or purchased by the person consuming, about to consume, or carrying away the alcoholic
3717 beverage or alcoholic product as against the occupant of the premises.

3718 (3) Notwithstanding the other provisions of this chapter, a criminal offense identified
3719 in this title as a criminal offense may not be enforced under this chapter if the criminal offense
3720 relates to a violation:

3721 (a) of a provision in this title related to intoxication or becoming intoxicated; and

3722 (b) if the violation is first investigated by a law enforcement officer, as defined in
3723 Section 53-13-103, who has not received training regarding the requirements of this title
3724 related to responsible alcoholic beverage sale or service.

3725 Section 29. Section **32A-12-209.5** is amended to read:

3726 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

3727 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
3728 premises of:

3729 (a) a tavern; or

3730 (b) a [~~class D private club~~] social club licensee, except to the extent authorized by
3731 Subsection 32A-5-107[~~(8)~~](2)(d).

3732 (2) A minor who violates this section is guilty of a class C misdemeanor.

3733 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
3734 by a court to have violated this section:

3735 (a) if the violation is the minor's first violation of this section, the court may suspend
3736 the minor's driving privileges; or

3737 (b) if the violation is the minor's second or subsequent violation of this section, the
3738 court shall suspend the minor's driving privileges.

3739 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
3740 by a court to have violated this section, [~~the provisions regarding suspension of the driver's~~
3741 ~~license under~~] Section 78A-6-606 [~~apply~~] applies to the violation.

3742 (5) When the court issues an order suspending a person's driving privileges for a
3743 violation of this section, the Driver License Division shall suspend the person's license under
3744 Section 53-3-219.

3745 (6) When the Department of Public Safety receives the arrest or conviction record of a

3746 person for a driving offense committed while the person's license is suspended pursuant to this
3747 section, the ~~[department]~~ Department of Public Safety shall extend the suspension for an
3748 additional like period of time.

3749 Section 30. Section **32A-12-212** is amended to read:

3750 **32A-12-212. Unlawful possession -- Exceptions.**

3751 (1) A person may not have or possess within this state ~~[any]~~ liquor unless authorized
3752 by this title or the rules of the commission, except that:

3753 (a) a person who clears United States Customs when entering this country may have or
3754 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
3755 purchased from without the United States;

3756 (b) a person who moves the person's residence to this state from outside of this state
3757 may have or possess for personal consumption and not for sale or resale, liquor previously
3758 purchased outside the state and brought into this state during the move, if:

3759 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
3760 state; and

3761 ~~[(ii) the department affixes the official state label to the liquor; and]~~

3762 ~~[(iii)]~~ (ii) the person pays the department a reasonable administrative handling fee as
3763 determined by the commission;

3764 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
3765 outside the state, may have or possess the liquor and transport or cause the liquor to be
3766 transported into the state if:

3767 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
3768 state;

3769 (ii) the person provides sufficient documentation to the department to establish the
3770 person's legal right to the liquor as a beneficiary; and

3771 ~~[(iii) the department affixes the official state label to the liquor; and]~~

3772 ~~[(iv)]~~ (iii) the person pays the department a reasonable administrative handling fee as
3773 determined by the commission; or

3774 (d) a person may transport, have, or possess liquor if:

3775 (i) the person transports, has, or possesses the liquor:

3776 (A) for personal household use and consumption; and

- 3777 (B) not for:
- 3778 (I) sale;
- 3779 (II) resale;
- 3780 (III) gifting to another; or
- 3781 (IV) consumption on a premise licensed by the commission;
- 3782 (ii) the liquor is purchased from a store or outlet on a military installation; and
- 3783 (iii) the maximum amount the person transports, has, or possesses under this
- 3784 Subsection (1)(d) is:
- 3785 (A) two liters of:
- 3786 (I) spirituous liquor;
- 3787 (II) wine; or
- 3788 (III) a combination of spirituous liquor and wine; and
- 3789 (B) (I) one case of heavy beer that does not exceed 288 ounces; or
- 3790 (II) [~~on or after October 1, 2008;~~] one case of a flavored malt beverage that does not
- 3791 exceed 288 ounces.
- 3792 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
- 3793 (i) is transferring the person's permanent residence to this state; or
- 3794 (ii) maintains separate residences both in and out of this state.
- 3795 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 3796 than once.
- 3797 Section 31. Section **32A-12-213** is amended to read:
- 3798 **32A-12-213. Unlawful bringing onto premises for consumption.**
- 3799 (1) Except as provided in Subsection (3), a person may not bring for on-premise
- 3800 consumption [~~any~~] an alcoholic beverage onto the premises of [~~any~~]:
- 3801 (a) a licensed or unlicensed restaurant;
- 3802 (b) a licensed or unlicensed [~~private~~] club;
- 3803 (c) an airport lounge licensee;
- 3804 (d) an on-premise banquet licensee;
- 3805 (e) an on-premise beer retailer licensee;
- 3806 (f) an event where an alcoholic [~~beverages are~~] beverage is sold or served under a
- 3807 single event permit or temporary special event beer permit issued under this title; or

3808 (g) any establishment open to the general public.

3809 (2) Except as provided in Subsection (3), [~~a licensed or unlicensed restaurant or private~~
3810 ~~club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or~~
3811 ~~holder of a single event permit or temporary special event beer permit issued under this title, or~~
3812 ~~its officers, managers, employees, or agents]~~ the following may not allow a person to bring
3813 onto its premises [~~any~~] an alcoholic beverage for on-premise consumption or allow
3814 consumption of [~~any such~~] an alcoholic beverage brought onto its premises in violation of this
3815 section[-]:

3816 (a) a licensed or unlicensed restaurant;

3817 (b) a licensed or unlicensed club;

3818 (c) an airport lounge licensee;

3819 (d) an on-premise banquet licensee;

3820 (e) an on-premise beer retailer licensee;

3821 (f) a holder of a single event permit or temporary special event beer permit issued
3822 under this title; or

3823 (g) an officer, manager, employee, or agent of a person listed in Subsections (2)(a)
3824 through (f).

3825 (3) (a) A person may bring bottled wine onto the premises of [~~any~~] a restaurant liquor
3826 licensee, limited restaurant licensee, or [~~private~~] club licensee and consume the wine pursuant
3827 to the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307(14), or
3828 32A-5-107[~~(31);~~] (18).

3829 (b) [~~a~~] A passenger of a limousine may bring onto, have, and consume [~~any~~] an
3830 alcoholic beverage on the limousine if:

3831 (i) the travel of the limousine begins and ends at:

3832 (A) the residence of the passenger;

3833 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3834 (C) the temporary domicile of the passenger; and

3835 (ii) the driver of the limousine is separated from the passengers by partition or other
3836 means approved by the department[;].

3837 (c) [~~a~~] A passenger of a chartered bus may bring onto, have, and consume [~~any~~] an
3838 alcoholic beverage on the chartered bus:

3839 (i) (A) but may consume only during travel to a specified destination of the chartered
3840 bus and not during travel back to the place where the travel begins; or

3841 (B) if the travel of the chartered bus begins and ends at:

3842 (I) the residence of the passenger;

3843 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3844 (III) the temporary domicile of the passenger; and

3845 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
3846 chartered bus to monitor consumption[~~;~~and].

3847 (d) [~~a~~] A person may bring onto any premises, have, and consume [~~any~~] an alcoholic
3848 beverage at a privately hosted event that is not open to the general public.

3849 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of an alcoholic
3850 [~~beverages in limousines and chartered buses~~] beverage in a limousine or chartered bus is not
3851 allowed if the limousine or chartered bus drops off [~~passengers at locations from which they~~
3852 ~~depart in private vehicles~~] a passenger at a location from which the passenger departs in a
3853 private vehicle.

3854 Section 32. Section **32A-12-219** is amended to read:

3855 **32A-12-219. Unlawful adulteration -- Licensing tampering.**

3856 (1) For purposes of this section, "tamper" means to do one or more of the following to
3857 the contents of a package:

3858 (a) fortify;

3859 (b) adulterate;

3860 (c) contaminate;

3861 (d) dilute;

3862 (e) change its character or purity; or

3863 (f) otherwise change.

3864 (2) A person may not, for any purpose, mix or allow to be mixed [~~any drug, methylic~~
3865 ~~alcohol, any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious~~
3866 ~~substance or liquid~~] with an alcoholic beverage sold or supplied by the person as a beverage[~~;~~
3867 any of the following:

3868 (a) a drug;

3869 (b) methylic alcohol;

- 3870 (c) a crude, unrectified, or impure form of ethylic alcohol; or
- 3871 (d) another deleterious substance.
- 3872 (3) (a) The following may not engage in an act listed in Subsection (3)(b):
- 3873 (i) a retail licensee;
- 3874 (ii) a permittee;
- 3875 (iii) a package agent;
- 3876 (iv) a beer wholesaler;
- 3877 (v) a supplier;
- 3878 (vi) an importer; or
- 3879 (vii) a warehouse.
- 3880 (b) A person listed in Subsection (3)(a) may not:
- 3881 (i) tamper with the contents of a package of alcoholic beverage as originally marketed
- 3882 by a manufacturer;
- 3883 (ii) refill or partly refill with any substance the contents of an original package of
- 3884 alcoholic beverage as originally marketed by a manufacturer;
- 3885 (iii) misrepresent the brand of an alcoholic beverage sold or offered for sale; or
- 3886 (iv) sell or serve a brand of alcoholic beverage that is not the same as that ordered by a
- 3887 purchaser without first advising the purchaser of the difference.
- 3888 Section 33. Section **32A-12-222** is amended to read:
- 3889 **32A-12-222. Unlawful dispensing.**
- 3890 (1) For purposes of this section:
- 3891 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and
- 3892 (b) "primary spirituous liquor" does not include a secondary alcoholic product used as
- 3893 a flavoring in conjunction with the primary distilled spirit in the beverage.
- 3894 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
- 3895 liquor for consumption on the licensed premises, or an officer, manager, employee, or agent of
- 3896 the licensee may not:
- 3897 (a) sell, serve, dispense, or otherwise furnish a primary spirituous liquor to a person on
- 3898 the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage
- 3899 dispensed through a calibrated metered dispensing system approved by the department;
- 3900 (b) sell, serve, dispense, or otherwise furnish more than a total of 2.5 ounces of

3901 spirituous liquor per beverage;

3902 (c) allow ~~[any]~~ a person on the licensed premises to have more than a total of 2.5
3903 ounces of spirituous liquor at a time;

3904 (d) allow ~~[any]~~ a person on the premises of the following to have more than one
3905 spirituous liquor beverage at a time:

3906 (i) a restaurant liquor licensee;

3907 (ii) an on-premise banquet licensee; ~~[or]~~

3908 (iii) a single event permittee; or

3909 (e) allow ~~[any]~~ a person to have more than two spirituous liquor beverages at a time in
3910 violation of:

3911 (i) Subsection 32A-4-206(2)(d); ~~[or]~~

3912 (ii) Subsection 32A-5-107~~[(20)]~~(7)(d).

3913 (3) A violation of this section is a class C misdemeanor.

3914 Section 34. Section **32A-12-301** is amended to read:

3915 **32A-12-301. Operating without a license or permit.**

3916 (1) (a) A person may not operate the following businesses without first obtaining a
3917 license under this title if the business allows a ~~[patron, customer, member, guest, visitor, or~~
3918 ~~other person]~~ person described in Subsection (1)(b) to purchase or consume an alcoholic
3919 beverage on the premises of the business:

3920 ~~[(a)]~~ (i) a restaurant;

3921 ~~[(b)]~~ (ii) an airport lounge;

3922 ~~[(c)]~~ (iii) a ~~[private]~~ club license;

3923 ~~[(d)]~~ (iv) an on-premise beer retailer outlet;

3924 ~~[(e)]~~ (v) on-premise banquet premises; or

3925 ~~[(f)]~~ (vi) a business similar to one listed in Subsections (1)(a)(i) through ~~[(e)]~~ (v).

3926 (b) Subsection (1)(a) applies if one of the following is allowed to purchase or consume
3927 an alcoholic beverage on the premises of the business:

3928 (i) a patron;

3929 (ii) a customer;

3930 (iii) a member; or

3931 (iv) a guest.

3932 (2) A person conducting an event or function that is open to the general public may not
3933 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a person
3934 attending the event or function without first obtaining a permit under this title.

3935 (3) A person conducting a privately hosted event or private social function may not
3936 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the
3937 privately hosted event or private social function without first obtaining a permit under this title.

3938 (4) A person may not operate the following businesses without first obtaining a license
3939 under this title:

- 3940 (a) a winery manufacturer;
- 3941 (b) a distillery manufacturer;
- 3942 (c) a brewery manufacturer;
- 3943 (d) a local industry representative of:
 - 3944 (i) a manufacturer of an alcoholic beverage;
 - 3945 (ii) a supplier of an alcoholic beverage; or
 - 3946 (iii) an importer of an alcoholic beverage;
- 3947 (e) a liquor warehouse; or
- 3948 (f) a beer wholesaler.

3949 (5) A person may not operate a public conveyance in this state without first obtaining a
3950 public service permit under this title if that public conveyance allows a person to purchase or
3951 consume an alcoholic beverage or alcoholic product:

- 3952 (a) on the public conveyance; or
- 3953 (b) on the premises of a hospitality room located with a depot, terminal, or similar
3954 facility at which a service is provided to a patron of the public conveyance.

3955 Section 35. Section **32A-14a-102** is amended to read:

3956 **32A-14a-102. Liability for injuries and damage resulting from distribution of**
3957 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

3958 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection
3959 (1)(b) is liable for:

- 3960 (i) any and all injury and damage, except punitive damages to:
 - 3961 (A) any third person; or
 - 3962 (B) the heir, as defined in Section 78B-3-105, of that third person; or

- 3963 (ii) for the death of a third person.
- 3964 (b) A person is liable under Subsection (1)(a) if:
- 3965 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:
- 3966 (A) to a person described in Subsection (1)(b)(ii); and
- 3967 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
- 3968 consumption of alcoholic products;
- 3969 (ii) those actions cause the intoxication of:
- 3970 (A) any individual under the age of 21 years;
- 3971 (B) any individual who is apparently under the influence of intoxicating alcoholic
- 3972 products or drugs;
- 3973 (C) any individual whom the person furnishing the alcoholic beverage knew or should
- 3974 have known from the circumstances was under the influence of intoxicating alcoholic
- 3975 beverages or products or drugs; or
- 3976 (D) any individual who is a known interdicted person; and
- 3977 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
- 3978 the individual who is provided the alcoholic beverage.
- 3979 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable
- 3980 for:
- 3981 (i) any and all injury and damage, except punitive damages to:
- 3982 (A) any third person; or
- 3983 (B) the heir, as defined in Section 78B-3-105, of that third person; or
- 3984 (ii) for the death of the third person.
- 3985 (b) A person is liable under Subsection (2)(a) if:
- 3986 (i) that person directly gives or otherwise provides an alcoholic beverage to an
- 3987 individual who the person knows or should have known is under the age of 21 years;
- 3988 (ii) those actions caused the intoxication of the individual provided the alcoholic
- 3989 beverage;
- 3990 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
- 3991 the individual who is provided the alcoholic beverage; and
- 3992 (iv) the person is not liable under Subsection (1), because the person did not directly
- 3993 give or provide the alcoholic beverage as part of the commercial sale, storage, service,

3994 manufacture, distribution, or consumption of alcoholic products.

3995 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its
3996 employees in violation of this chapter.

3997 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action
3998 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

3999 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities
4000 provided by this chapter survive to or against that person's estate.

4001 (6) The total amount that may be awarded to any person pursuant to a cause of action
4002 for injury and damage under this chapter that arises after [~~January 1, 1998~~] January 1, 2010, is
4003 limited to [~~\$500,000~~] \$1,000,000 and the aggregate amount which may be awarded to all
4004 persons injured as a result of one occurrence is limited to [~~\$1,000,000~~] \$2,000,000.

4005 (7) An action based upon a cause of action under this chapter shall be commenced
4006 within two years after the date of the injury and damage.

4007 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery
4008 against the person causing the injury.

4009 (b) Any cause of action or additional recovery against the person causing the injury and
4010 damage, which action is not brought under this chapter, is exempt from the damage cap in
4011 Subsection (6).

4012 (c) Any cause of action brought under this chapter is exempt from Sections 78B-5-817
4013 through 78B-5-823.

4014 (9) This section does not apply to a business licensed under Chapter 10, Part 1, General
4015 Provisions, to sell beer at retail only for off-premise consumption.

4016 Section 36. Section **32A-14a-103** is amended to read:

4017 **32A-14a-103. Employee protected in exercising judgment.**

4018 (1) An employer may not sanction or terminate the employment of an employee of a
4019 restaurant, airport lounge, [~~private~~] on-premise banquet licensee, club licensee, on-premise
4020 beer retailer, or any other establishment serving an alcoholic [~~beverages~~] beverage as a result of
4021 the employee having exercised the employee's independent judgment to refuse to sell an
4022 alcoholic [~~beverages~~] beverage to [~~any~~] a person the employee considers to meet one or more
4023 of the conditions described in Subsection 32A-14a-102(1).

4024 (2) [~~Any~~] An employer who terminates an employee or imposes sanctions on the

4025 employee contrary to this section is considered to have discriminated against that employee and
4026 is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah
4027 Antidiscrimination Act.

4028 Section 37. Section **53-10-305** is amended to read:

4029 **53-10-305. Duties of bureau chief.**

4030 The bureau chief, with the consent of the commissioner, shall do the following:

4031 (1) conduct in conjunction with the state boards of education and higher education in
4032 state schools, colleges, and universities, an educational program concerning alcoholic products,
4033 and work in conjunction with civic organizations, churches, local units of government, and
4034 other organizations in the prevention of alcoholic product and drug violations;

4035 (2) coordinate law enforcement programs throughout the state and accumulate and
4036 disseminate information related to the prevention, detection, and control of violations of this
4037 chapter and Title 32A, Alcoholic Beverage Control Act, as it relates to storage or consumption
4038 of alcoholic beverages on premises maintained by [~~social clubs, recreational, athletic, and~~
4039 ~~kindred associations~~] a club licensee, or a person required to be licensed as a club licensee, as
4040 defined in Section 32A-1-105;

4041 (3) make inspections and investigations as required by the commission and the
4042 Department of Alcoholic Beverage Control;

4043 (4) perform other acts as may be necessary or appropriate concerning control of the use
4044 of alcoholic beverages and products and drugs; and

4045 (5) make reports and recommendations to the Legislature, the governor, the
4046 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
4047 required or requested.

4048 Section 38. **Repealer.**

4049 This bill repeals:

4050 Section **32A-12-218, Unlawful labeling or lack of label.**

4051 Section 39. **Effective date.**

4052 (1) This bill takes effect on May 12, 2009 except:

4053 (a) the amendments in this bill to the following take effect on July 1, 2009:

4054 (i) Section 32A-5-101;

4055 (ii) Section 32A-5-102, except for Subsection 32A-5-102(1)(j);

- 4056 (iii) Section 32A-5-103 (Effective 07/01/09);
 4057 (iv) Section 32A-5-104;
 4058 (v) Section 32A-5-106; ~~H~~→ [and] ←~~H~~
 4059 (vi) Section 32A-5-107;
 4059a ~~H~~→ (vii) Section 11-10-1;
 4059b (viii) Section 26-38-2;
 4059c (ix) Section 26-38-3;
 4059d (x) Subsections 32A-1-105(12), (23), (35), and the existing (64) that defines a "visitor";
 4059e (xi) Section 32A-1-304.5;
 4059f (xii) Section 32A-1-603;
 4059g (xiii) Section 32A-12-209.5; and
 4059h (xiv) Section 53-10-305; ←~~H~~
 4060 (b) the amendments in this bill to the following take effect on January 1, 2010:
 4061 (i) Section 32A-4-102;
 4062 (ii) Section 32A-4-202;
 4063 (iii) Section 32A-4-303;
 4064 (iv) Section 32A-4-402;
 4065 (v) Section 32A-10-202; and
 4066 (vi) Section 32A-14a-102 and
 4067 (c) Subsection 32A-5-102(1)(j) takes effect on July 1, 2010.
 4068 (2) During the 2009 interim, the Business and Labor Interim Committee shall:
 4069 (a) study whether or not a club licensee can reasonably obtain dramshop insurance
 4070 coverage of the amounts required by the amendments in this bill to Subsection
 4071 32A-5-102(1)(j); and
 4072 (b) make a recommendation to the Legislature regarding any changes to Subsection
 4073 32A-5-102(1)(j) for consideration during the 2010 General Session.
 4074 **Section 40. Revisor instructions for H.B. 347.**
 4075 If this H.B. 347 passes, it is the intent of the Legislature that the Office of Legislative
 4076 Research and General Counsel in preparing the Utah Code database that takes effect July 1,
 4077 2009, for publication replace "private club" or "private club licensee" with "club licensee" in
 4078 any new language added to the Utah Code by legislation passed during the 2009 General
 4079 Session, if the context of the terms clearly indicates that the terms "private club" or "private
 4080 club licensee" refer to a private club licensed under Title 32A, Chapter 5.
 4081 **Section 41. Coordinating H.B. 347 with H.B. 349 -- Merging amendments.**
 4082 If this H.B. 347 and H.B. 349, Heavy Beer Amendments, both pass, it is the intent of
 4083 the Legislature that the Office of Legislative Research and General Counsel in preparing the
 4084 Utah Code database for publication:
 4085 (1) treat this coordination clause as superseding the coordination clause in H.B. 349
 4086 between this bill and H.B. 349;

- 4087 (2) modify the Subsection 32A-11-202(1)(e) enacted in H.B. 349, to read "(e) club
4088 licensee;"
- 4089 (3) modify 32A-11-203, enacted in H.B. 349 as follows:
- 4090 (a) insert "and" at the end of Subsection (2);
- 4091 (b) delete Subsection (3); and
- 4092 (c) renumber Subsection (4) to Subsection (3);
- 4093 (4) modify the Subsection 32A-12-201(1)(e)(v) enacted in H.B. 349 to read "(v) a club
4094 licensee;";
- 4095 (5) modify the Subsection 32A-12-201(3)(a)(v)(E) enacted in H.B. 349 to read "(E) a
4096 club licensee;"; and
- 4097 (6) have the repeal of Section 32A-12-218 in this bill supersede the amendments to that
4098 section in H.B. 349.

H.B. 347 1st Sub. (Buff) - Alcoholic Beverage Control Act Modifications

Fiscal Note

2009 General Session

State of Utah

State Impact

Enacting this bill reduces Department of Alcoholic Beverage Control current expense and personal service costs by \$950,000 per year. An additional day of operation in a year in which a statewide election occurs will generate profit of approximately \$140,000 for that year, every other year. Transition credits authorized by the bill will reduce Liquor Control Fund revenue by no more than \$1,090,000. If the statutory credit cap is reached in the first year of implementation (FY 2010) - a year in which no statewide election occurs - the net impact on the Liquor Control Fund would be a loss of \$140,000. This loss would decrease by \$140,000 amounts that are transferred to the General Fund. Once the cap is reached, all new revenue will accrue to the General Fund.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$140,000)	\$1,090,000
Liquor Control Fund	\$0	(\$950,000)	(\$950,000)	\$0	(\$950,000)	\$0
Total	\$0	(\$950,000)	(\$950,000)	\$0	(\$1,090,000)	\$1,090,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Businesses and individuals may be impacted due to changes in the proposed statutes.
