

Senator John L. Valentine proposes the following substitute bill:

ALCOHOLIC BEVERAGE RELATED

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address licensing, penalties, and investigations.

Highlighted Provisions:

This bill:

- ▶ provides for conditional licenses for certain retail licenses;
- ▶ addresses access to information related to a private club licensee or tavern by an investigator;
- ▶ changes the insurance and liability limits related to dramshop;
- ▶ modifies the definition of a "convention center"; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:



26 32A-1-107, as last amended by Laws of Utah 2006, Chapter 162

27 32A-1-119, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391

28 32A-4-102, as last amended by Laws of Utah 2008, Chapter 391

29 32A-4-202, as last amended by Laws of Utah 2004, Chapter 268

30 32A-4-303, as last amended by Laws of Utah 2008, Chapter 391

31 32A-4-401, as last amended by Laws of Utah 2008, Chapter 391

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

33 32A-5-102, as last amended by Laws of Utah 2008, Chapter 391

34 32A-10-202, as last amended by Laws of Utah 2008, Chapter 391

35 32A-14a-102, as last amended by Laws of Utah 2008, Chapter 3

36 ENACTS:

37 32A-5-109, Utah Code Annotated 1953

38 32A-10-207, Utah Code Annotated 1953



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

41 Section 1. Section 32A-1-107 is amended to read:

42 **32A-1-107. Powers and duties of the commission.**

43 (1) The commission shall:

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

45 (b) adopt and issue policies, directives, rules, and procedures;

46 (c) set policy by written rules that establish criteria and procedures for:

47 (i) granting, denying, suspending, or revoking ~~[permits, licenses, certificates of~~

48 ~~approval, and package agencies]~~ a permit, license, certificate of approval, or package agency;

49 (ii) controlling liquor merchandise inventory including:

50 (A) listing and delisting ~~[products]~~ a product;

51 (B) the procedures for testing a new [products] product;

52 (C) purchasing policy;

53 (D) turnover requirements for a regularly coded [products] product to be continued;

54 and

55 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and

56 (iii) determining the location of a state [stores, package agencies, and outlets] store,

57 package agency, or outlet;

58 (d) decide within the limits and under the conditions imposed by this title, the number
59 and location of state stores, package agencies, and outlets established in the state;

60 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
61 certificates of approval, and package agencies for the purchase, sale, storage, service,
62 manufacture, distribution, and consumption of an alcoholic [products] product:

63 (i) a package [agencies] agency;

64 (ii) a restaurant [licenses] license;

65 (iii) an airport lounge [licenses] license;

66 (iv) a limited restaurant [licenses] license;

67 (v) an on-premise banquet [licenses] license;

68 (vi) a private club [licenses] license;

69 (vii) an on-premise beer retailer [licenses] license;

70 (viii) a temporary special event beer [permits] permit;

71 (ix) a special use [permits] permit;

72 (x) a single event [permits] permit;

73 (xi) a manufacturing [licenses] license;

74 (xii) a liquor warehousing [licenses] license;

75 (xiii) a beer wholesaling [licenses] license; and

76 (xiv) an out-of-state brewer [certificates] certificate of approval;

77 (f) in accordance with Subsection (5), issue, grant, deny, suspend, or revoke one of the
78 following conditional licenses for the purchase, sale, storage, service, manufacture,
79 distribution, and consumption of an alcoholic product:

80 (i) a conditional restaurant license; or

81 (ii) a conditional limited restaurant license;

82 ~~(f)~~ (g) fix prices at which ~~[liquors are]~~ liquor is sold that are the same at all state
83 stores, package agencies, and outlets;

84 ~~(g)~~ (h) issue and distribute price lists showing the price to be paid by ~~[purchasers]~~ a
85 purchaser for each class, variety, or brand of liquor kept for sale by the department;

86 ~~(h)~~ (i) (i) require the director to follow sound management principles; and

87 (ii) require periodic reporting from the director to ensure that:

88 (A) sound management principles are being followed; and
89 (B) policies established by the commission are being observed;
90 ~~[(†)]~~ (j) (i) receive, consider, and act in a timely manner upon ~~[aH]~~ the reports,
91 recommendations, and matters submitted by the director to the commission; and
92 (ii) do ~~[aH]~~ the things necessary to support the department in properly performing the
93 department's duties and responsibilities;
94 ~~[(†)]~~ (k) obtain temporarily and for special purposes the services of ~~[experts and~~
95 ~~persons]~~ an expert or person engaged in the practice of a profession or who possess any needed
96 skills, talents, or abilities if:
97 (i) considered expedient; and
98 (ii) approved by the governor;
99 ~~[(*)]~~ (l) prescribe the duties of a departmental ~~[officials]~~ official authorized to assist
100 the commission in issuing ~~[permits, licenses, certificates of approval, and package agencies]~~ a
101 permit, license, certificate of approval, or package agency under this title;
102 ~~[(†)]~~ (m) prescribe, consistent with this title, the fees payable for:
103 (i) ~~[permits, licenses, certificates of approval, and package agencies]~~ a permit, license,
104 certificate of approval, or package agency issued under this title; or
105 (ii) anything done or permitted to be done under this title;
106 ~~[(m)]~~ (n) prescribe the conduct, management, and equipment of ~~[any premises]~~ a
107 premise upon which an alcoholic ~~[beverages]~~ beverage may be sold, consumed, served, or
108 stored;
109 ~~[(m)]~~ (o) make rules governing the credit terms of beer sales to retailers within the state;
110 ~~[(o)]~~ (p) require that each of the following, where required in this title, display in a
111 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol
112 or drugs is a serious crime that is prosecuted aggressively in Utah."
113 (i) a state store;
114 (ii) a permittee;
115 (iii) a licensee; and
116 (iv) a package agency; and
117 ~~[(p)]~~ (q) subject to Subsection (4) and as provided in this title, impose fines against:
118 (i) a permittee, licensee, certificate holder, or package agent described in Subsection

119 (1)(e); or

120 (ii) ~~[any]~~ an officer, employee, or agent of a permittee, licensee, certificate holder, or
121 package agent described in Subsection (1)~~(p)(i)~~(q)(i).

122 (2) The power of the commission to do the following is plenary, except as otherwise
123 provided by this title, and not subject to review:

124 (a) establish a state ~~[stores]~~ store;

125 (b) create a package ~~[agencies]~~ agency;

126 (c) grant authority to operate a package ~~[agencies]~~ agency; and

127 (d) grant or deny ~~[permits, licenses, and certificates]~~ a permit, license, or certificate of
128 approval.

129 (3) The commission may appoint a qualified hearing ~~[examiners]~~ examiner to conduct
130 ~~[any]~~ a suspension or revocation ~~[hearings]~~ hearing required by law.

131 (4) (a) In any case ~~[where]~~ when the commission is given the power to suspend ~~[any]~~ a
132 permit, license, certificate of approval, or package agency the commission may impose a fine in
133 addition to or in lieu of suspension.

134 (b) ~~[Fines]~~ A fine imposed may not exceed \$25,000 in the aggregate for:

135 (i) ~~[any]~~ a single Notice of Agency Action; or

136 (ii) a single action against a package agency.

137 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines
138 for each violation.

139 (5) (a) As used in this Subsection (5):

140 (i) "Conditional license" means a license issued to a person that:

141 (A) is for one of the following:

142 (I) a restaurant license; or

143 (II) a limited restaurant license;

144 (B) conditions the person's ability to sell or allow the consumption of an alcoholic
145 beverage on its premises on the person providing a copy of the person's current business license
146 before obtaining a valid license; and

147 (C) provides that the person will be issued or granted a valid license if the person
148 complies with the requirements of Subsection (5)(c).

149 (ii) "Valid license" means a license issued under Subsection (1)(e) under which the

150 person is permitted to sell or allow the consumption of an alcoholic beverage on its premises.

151 (b) Subject to the requirements of this Subsection (5), the commission may grant a
152 conditional license to a person if the person:

153 (i) meets all of the requirements to obtain the license for which the person is applying
154 except the requirement to submit a copy of the applicant's current business license; and

155 (ii) agrees not to sell or allow the consumption of an alcoholic beverage on its premises
156 before obtaining a valid license.

157 (c) (i) A conditional license becomes a valid license on the day on which the
158 department notifies the person who holds the conditional license that the department finds that
159 the person has complied with Subsection (5)(c)(ii).

160 (ii) For a conditional license to become a valid license, a person who holds the
161 conditional license shall:

162 (A) submit to the department a copy of the person's current business license; and

163 (B) provide to the department evidence satisfactory to the department that:

164 (I) there has been no change in the information provided to the commission as part of
165 the person's application for a license; and

166 (II) the person continues to qualify for the license.

167 (d) A conditional license expires six months after the day on which the commission
168 issues or grants the license, unless it becomes a valid license before that day.

169 Section 2. Section **32A-1-119** is amended to read:

170 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

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

176 (i) the commission;

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

179 (iii) the director; and

180 (iv) the department.

181 (b) Except as provided in this section or Section 32A-3-106, the following shall
182 comply with the procedures and requirements of Title 63G, Chapter 4, Administrative
183 Procedures Act, in an adjudicative proceeding:

- 184 (i) the commission;
- 185 (ii) a hearing examiner appointed by the commission;
- 186 (iii) the director; and
- 187 (iv) the department.

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

- 190 (i) video or audio recorded; and
- 191 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
192 Open and Public Meetings Act.

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

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

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

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

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

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

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

208 (I) findings of fact determined on the basis of a preponderance of the evidence

209 presented at the hearing;

210 (II) conclusions of law; and

211 (III) recommendations.

212 (c) Nothing in this section precludes the commission, after the commission renders its
213 final decision and order, from having the director prepare, issue, and cause to be served on the
214 parties the final written order on behalf of the commission.

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

216 (a) The department may initiate a disciplinary proceeding described in Subsection
217 (4)(b) if the department receives:

218 (i) a report from a government agency, peace officer, examiner, or investigator alleging
219 that a person listed in Subsections 32A-1-105(17)(a)(i) through (vii) violated this title or the
220 rules of the commission;

221 (ii) a final adjudication of criminal liability against a person listed in Subsections
222 32A-1-105(17)(a)(i) through (vii) based on an alleged violation of this title; or

223 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
224 Liability, against a person listed in Subsections 32A-1-105(17)(a)(i) through (vii) based on an
225 alleged violation of this title.

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

228 (i) whether a person listed in Subsections 32A-1-105(17)(a)(i) through (vii) violated
229 this title or rules of the commission; and

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

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

232 (i) if required by law;

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

235 (iii) before imposing a fine against a person listed in Subsections 32A-1-105(17)(a)(i)
236 through (vii).

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

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

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

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

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

248 (A) administer oaths or affirmations;

249 (B) take evidence;

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

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

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

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

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

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

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

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

266 (I) appear before the issuing party; and

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

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

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

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

272 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
273 recommend a penalty more severe than that initially sought by the department in the notice of

274 agency action.

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

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

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

282 (6) (a) The commission shall:

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

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

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

287 (c) If the commission is satisfied that a person listed in Subsections
288 32A-1-105(17)(a)(i) through (vii) violated this title or the commission's rules, in accordance
289 with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

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

291 (ii) impose a fine against a person listed in Subsections 32A-1-105(17)(a)(i) through
292 (vii);

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

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

296 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
297 32A-1-107(1)~~(p)~~(q) and (4).

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

300 (A) during the suspension; and

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

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

303 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
304 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be

305 sold, served, furnished, or consumed on these premises during the period of suspension."; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

335 (B) a suspension of the department's purchase of the one or more products described in

336 Subsection (8)(b)(i)(A) for a period determined by the commission.

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

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

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

341 (I) directly commits the violation; or

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

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

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

348 (b) If the commission makes a finding that the brewer holding a certificate of approval
349 violates this title or rules of the commission, the commission may take an action against the
350 brewer holding a certificate of approval that the commission could take against a licensee
351 including:

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

353 (ii) imposition of a fine.

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

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

359 (ii) the alleged violation involves:

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

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

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

365 (D) interfering or refusing to cooperate with:

366 (I) an authorized official of the department or the state in the discharge of the official's

367 duties in relation to the enforcement of this title; or

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

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

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

372 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
373 32A-12-601(2), to a person other than the department or a military installation, except to the
374 extent permitted by this title; or

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

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

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

378 or

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

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

382 Section 3. Section **32A-4-102** is amended to read:

383 **32A-4-102. Application and renewal requirements.**

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

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

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

389 (c) written consent of the local authority;

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

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

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

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

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

398 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
399 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

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

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

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

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

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

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

412 (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

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

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

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

424 (a) ownership of the restaurant;

425 (b) for a corporate owner, the:

426 (i) corporate officers or directors; or

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

429 (c) for a limited liability company:

430 (i) managers; or

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

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

433 **32A-4-202. Application and renewal requirements.**

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

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

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

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

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

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

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

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

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

447 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
448 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

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

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

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

457 (2) (a) All airport lounge liquor licenses expire on October 31 of each year.

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

460 September 30.

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

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

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

467 (a) ownership of the licensee;

468 (b) for a corporate owner, the:

469 (i) corporate officers or directors; or

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

472 (c) for a limited liability company:

473 (i) managers; or

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

475 Section 5. Section **32A-4-303** is amended to read:

476 **32A-4-303. Application and renewal requirements.**

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

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

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

482 (c) written consent of the local authority;

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

484 (e) evidence of proximity to any community location, with proximity requirements
485 being governed by Section 32A-4-302;

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

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

488 (i) consumption areas; and

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

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

493 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
494 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

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

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

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

503 (2) (a) All limited restaurant licenses expire on October 31 of each year.

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

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

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

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

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

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

513 (a) ownership of the restaurant;

514 (b) for a corporate owner, the:

515 (i) corporate officer or directors; or

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

518 (c) for a limited liability company:

519 (i) managers; or

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

521 Section 6. Section **32A-4-401** is amended to read:

522 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

523 (1) (a) For purposes of this part:

524 (i) "Banquet" means an event:

525 (A) for which there is a contract:

526 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

527 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide an

528 alcoholic [~~beverages~~] beverage at the event;

529 (B) held at one or more designated locations approved by the commission in or on the

530 premises of a:

531 (I) hotel;

532 (II) resort facility;

533 (III) sports center; or

534 (IV) convention center; and

535 (C) at which food and alcoholic beverages may be sold and served.

536 (ii) "Convention center" is [~~as~~] a facility that:

537 (A) is in total at least 30,000 square feet; and

538 (B) is otherwise defined as a "convention center" by the commission by rule.

539 (iii) "Hotel" is as defined by the commission by rule.

540 (iv) "Resort facility" is as defined by the commission by rule.

541 (v) "Room service" means service of an alcoholic [~~beverages~~] beverage to a guest room

542 of a:

543 (A) hotel; or

544 (B) resort facility.

545 (vi) "Sports center" is as defined by the commission by rule.

546 (b) The commission may issue an on-premise banquet license to any of the following
547 persons for the purpose of allowing the storage, sale, service, and consumption of an alcoholic

548 [~~beverages~~] beverage in connection with that person's banquet and room service activities:

549 (i) a hotel;

550 (ii) a resort facility;

551 (iii) a sports center; or

552 (iv) a convention center.

553 (c) This chapter [~~is not intended to~~] does not prohibit an alcoholic [~~beverages~~]
554 beverage on the premises of a person listed in Subsection (1) to the extent otherwise permitted
555 by this title.

556 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
557 at any time aggregate more than that number determined by dividing the population of the state
558 by 30,000.

559 (b) For purposes of this Subsection (2), the population of the state shall be determined
560 by:

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

562 (ii) another population determination made by the United States or state governments.

563 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
564 licensee:

565 (a) the host of a contracted banquet may request an on-premise banquet licensee to
566 provide an alcoholic [~~beverages~~] beverage served at a banquet; and

567 (b) an on-premise banquet licensee may provide [~~the~~] an alcoholic [~~beverages~~]
568 beverage served at a banquet.

569 (4) At a banquet, an on-premise banquet licensee may provide:

570 (a) a hosted bar; or

571 (b) a cash bar.

572 (5) Nothing in this section [~~shall prohibit~~] prohibits a qualified on-premise banquet
573 license applicant from applying for a package agency.

574 (6) (a) Except as provided in Subsection (6)(b), (c), or (d), the premises of an
575 on-premise banquet license may not be established:

576 (i) within 600 feet of a community location, as measured by the method in Subsection
577 (6)(e); or

578 (ii) within 200 feet of a community location, measured in a straight line from the
579 nearest entrance of the proposed outlet to the nearest property boundary of the community
580 location.

581 (b) With respect to the establishment of an on-premise banquet license, the
582 commission may authorize a variance to reduce the proximity requirement of Subsection
583 (6)(a)(i) if:

584 (i) the local authority grants its written consent to the variance;
585 (ii) the commission finds that alternative locations for establishing an on-premise
586 banquet license in the community are limited;
587 (iii) the variance is authorized after a public hearing is held in the city, town, or county,
588 and where practical in the neighborhood concerned;
589 (iv) after giving full consideration to all of the attending circumstances and the policies
590 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
591 license would not be detrimental to the public health, peace, safety, and welfare of the
592 community; and
593 (v) (A) the community location governing authority gives its written consent to the
594 variance; or
595 (B) when written consent is not given by the community location governing authority,
596 the commission finds that the applicant has established that:
597 (I) there is substantial unmet public demand to consume alcohol in a public setting
598 within the geographic boundary of the local authority in which the on-premise banquet license
599 premises is to be located;
600 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
601 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise
602 banquet license; and
603 (III) there is no reasonably viable alternative location within the geographic boundary
604 of the local authority in which the on-premise banquet license premises is to be located for
605 establishing an on-premise banquet license to satisfy the unmet demand described in
606 Subsection (6)(b)(v)(B)(I).
607 (c) With respect to the establishment of an on-premise banquet license, the commission
608 may authorize a variance that reduces the proximity requirement of Subsection (6)(a)(ii) if:
609 (i) the community location at issue is:
610 (A) a public library; or
611 (B) a public park;
612 (ii) the local authority grants its written consent to the variance;
613 (iii) the commission finds that alternative locations for establishing an on-premise
614 banquet license in the community are limited;

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

617 (v) after giving full consideration to all of the attending circumstances and the policies
618 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
619 on-premise banquet license would not be detrimental to the public health, peace, safety, and
620 welfare of the community; and

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

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

625 (I) there is substantial unmet public demand to consume alcohol in a public setting
626 within the geographic boundary of the local authority in which the on-premise banquet license
627 premises is to be located;

628 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
629 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise
630 banquet license; and

631 (III) there is no reasonably viable alternative location within the geographic boundary
632 of the local authority in which the on-premise banquet license premises is to be located for
633 establishing an on-premise banquet license to satisfy the unmet demand described in
634 Subsection (6)(c)(vi)(B)(I).

635 (d) With respect to the premises of any on-premise banquet license issued by the
636 commission that undergoes a change of ownership, the commission may waive or vary the
637 proximity requirements of Subsection (6)(a) in considering whether to grant an on-premise
638 banquet license to the new owner of the premises if:

639 (i) (A) the premises previously received a variance reducing the proximity requirement
640 of Subsection (6)(a)(i); or

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

643 (ii) a variance from proximity requirements was otherwise allowed under this title.

644 (e) The 600 foot limitation described in Subsection (6)(a)(i) is measured from the
645 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the

646 property boundary of the community location.

647 (7) (a) Nothing in this section prevents the commission from considering the proximity
648 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
649 decision on a proposed location.

650 (b) For purposes of this Subsection (7), "educational facility" includes:

- 651 (i) a nursery school;
- 652 (ii) an infant day care center; and
- 653 (iii) a trade and technical school.

654 (8) (a) As used in this Subsection (8), "grandfathered facility" means a facility:

655 (i) for which the commission granted an on-premise banquet license that is in effect on
656 May 11, 2009, on the basis that the facility is a convention center; and

657 (ii) that no longer qualifies as a convention center under Subsection (1)(a)(ii) solely
658 because it is in total less than 30,000 square feet.

659 (b) Notwithstanding Subsection (1)(a)(ii), the on-premise banquet license applicable to
660 a grandfathered facility may be renewed until October 31, 2011, if the on-premise banquet
661 license is qualified for the on-premise banquet license except for the requirements of
662 Subsection (1)(a)(ii).

663 Section 7. Section **32A-4-402** is amended to read:

664 **32A-4-402. Application and renewal requirements.**

665 (1) (a) A person seeking an on-premise banquet license under this part shall file a
666 written application with the department, in a form prescribed by the department. The
667 application shall be accompanied by:

- 668 (i) a nonrefundable \$250 application fee;
- 669 (ii) an initial license fee of \$500, which is refundable if a license is not granted;
- 670 (iii) written consent of the local authority;
- 671 (iv) a copy of the applicant's current business license;
- 672 (v) evidence of proximity to any community location, with proximity requirements
673 being governed by Section 32A-4-401;
- 674 (vi) a bond as specified by Section 32A-4-405;
- 675 (vii) a description or floor plan and boundary map of the premises, where appropriate,
676 of the on-premise banquet license applicant's location, designating:

677 (A) the location at which the on-premise banquet license applicant proposes that
678 alcoholic beverages be stored; and

679 (B) the designated locations on the premises of the applicant from which the
680 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
681 consumed;

682 (viii) evidence that the on-premise banquet license applicant is carrying public liability
683 insurance in an amount and form satisfactory to the department;

684 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
685 insurance coverage of at least [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~]
686 \$2,000,000 in the aggregate;

687 (x) a signed consent form stating that the on-premise banquet license applicant will
688 permit any authorized representative of the commission, department, or any law enforcement
689 officer unrestricted right to enter the on-premise banquet premises;

690 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
691 company, proper verification evidencing that the person or persons signing the on-premise
692 banquet license application are authorized to so act on behalf of the partnership, corporation, or
693 limited liability company; and

694 (xii) any other information the commission or department may require.

695 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
696 and (vi) if the applicant is:

697 (i) a state agency; or

698 (ii) a political subdivision of the state including:

699 (A) a county; or

700 (B) a municipality.

701 (2) Additional locations in or on the premises of an on-premise banquet license
702 applicant's business from which the on-premise banquet license applicant may propose that
703 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
704 original application may be approved by the department upon proper application, in accordance
705 with guidelines approved by the commission.

706 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

707 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that

708 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed
709 renewal application to the department no later than September 30.

710 (ii) A licensee is not required to submit the renewal fee if the licensee is:

711 (A) a state agency; or

712 (B) a political subdivision of the state including:

713 (I) a county; or

714 (II) a municipality.

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

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

718 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may
719 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
720 immediately notify the department of any change in:

721 (a) ownership of the licensee;

722 (b) for a corporate owner, the:

723 (i) corporate officers or directors; or

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

726 (c) for a limited liability company:

727 (i) managers; or

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

729 Section 8. Section **32A-5-102** is amended to read:

730 **32A-5-102. Application and renewal requirements.**

731 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
732 file a written application with the department in a form prescribed by the department. The
733 application shall be accompanied by:

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

735 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

736 (c) written consent of the local authority;

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

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

739 being governed by Section 32A-5-101;

740 (f) evidence that the applicant operates a club where a variety of food is prepared and
741 served in connection with dining accommodations;

742 (g) a bond as specified by Section 32A-5-106;

743 (h) a floor plan of the club premises, including consumption areas and the area where
744 the applicant proposes to keep and store liquor;

745 (i) evidence that the club is carrying public liability insurance in an amount and form
746 satisfactory to the department;

747 (j) evidence that the club is carrying dramshop insurance coverage of at least
748 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

749 (k) a copy of the club's bylaws or house rules, and any amendments to those
750 documents, which shall be kept on file with the department at all times;

751 (l) a signed consent form stating that the club and its management will permit any
752 authorized representative of the commission, department, or any law enforcement officer
753 unrestricted right to enter the club premises;

754 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
755 C, or D private club licensee; and

756 (ii) evidence that the private club meets the requirements for the classification for
757 which the club is applying;

758 (n) in the case of a partnership, corporation, or limited liability company applicant,
759 proper verification evidencing that the person or persons signing the private club application
760 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
761 and

762 (o) any other information the commission or department may require.

763 (2) (a) The commission may refuse to issue a license if the commission determines that
764 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

765 (i) reasonable; and

766 (ii) consistent with:

767 (A) the declared nature and purpose of the applicant; and

768 (B) the purposes of this chapter.

769 (b) Club bylaws or house rules shall include provisions respecting the following:

- 770 (i) standards of eligibility for members;
- 771 (ii) limitation of members, consistent with the nature and purpose of the private club;
- 772 (iii) the period for which dues are paid, and the date upon which the period expires;
- 773 (iv) provisions for dropping members for the nonpayment of dues or other cause; and
- 774 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor
- 775 cards.

776 (3) (a) All private club licenses expire on June 30 of each year.

777 (b) A person desiring to renew that person's private club license shall submit by no later

778 than May 31:

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

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

781 Gross Cost of Liquor in Previous License Year for the Licensee	781 Renewal Fee
782 under \$10,000	782 \$1,000
783 equals or exceeds \$10,000 but less than \$25,000	783 \$1,250
784 equals or exceeds \$25,000 but less than \$75,000	784 \$1,750
785 equals or exceeds \$75,000	785 \$2,250

786 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

787 the license effective on the date the existing license expires.

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

789 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may

790 suspend or revoke any private club license if the private club licensee does not immediately

791 notify the department of any change in:

792 (a) ownership of the club;

793 (b) for a corporate owner, the:

794 (i) corporate officers or directors; or

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

796 corporation; or

797 (c) for a limited liability company:

798 (i) managers; or

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

800 Section 9. Section **32A-5-109** is enacted to read:

801 **32A-5-109. Information obtained by investigator.**

802 (1) As used in this section:

803 (a) "Investigator" means an individual who is:

804 (i) (A) an auditor or inspector; and

805 (B) employed by the department; or

806 (ii) (A) a peace officer, examiner, or investigator; and

807 (B) employed by a nondepartment enforcement agency.

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

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

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

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

813 (c) (i) "Record" means information that is:

814 (A) inscribed on a tangible medium; or

815 (B) stored in an electronic or other medium and is retrievable in perceivable form.

816 (ii) "Record" includes:

817 (A) book;

818 (B) book of account;

819 (C) paper;

820 (D) contract;

821 (E) agreement;

822 (F) document; or

823 (G) recording in any medium.

824 (2) (a) Subject to Subsection (2)(b), if an investigator is permitted by another provision
825 of this chapter to inspect a book or record of a private club licensee, in addition to any other
826 rights under this title, the investigator may inspect, have a copy of, or otherwise review any
827 record of the private club licensee that is a visual recording of the operations of the private club
828 licensee.

829 (b) An investigator who is a peace officer may not inspect, have a copy of, or otherwise
830 review a visual recording described in Subsection (2)(a) without probable cause.

831 Section 10. Section **32A-10-202** is amended to read:

832 **32A-10-202. Application and renewal requirements.**

833 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
834 written application with the department, in a form prescribed by the department. The
835 application shall be accompanied by:

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

837 (b) an initial license fee that is refundable if a license is not granted in the following
838 amount:

839 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
840 license fee is \$150; or

841 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
842 \$1,250;

843 (c) written consent of the local authority or a license to sell beer at retail for on-premise
844 consumption granted by the local authority under Section 32A-10-101;

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

846 (e) evidence of proximity to any community location, with proximity requirements
847 being governed by Section 32A-10-201;

848 (f) a bond as specified by Section 32A-10-205;

849 (g) a floor plan of the premises, including consumption areas and the area where the
850 applicant proposes to keep, store, and sell beer;

851 (h) evidence that the on-premise beer retailer licensee is carrying public liability
852 insurance in an amount and form satisfactory to the department;

853 (i) for a licensee that sells more than \$5,000 of beer annually, evidence that the
854 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least
855 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

856 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
857 any authorized representative of the commission, department, or any peace officer unrestricted
858 right to enter the licensee premises;

859 (k) in the case of an applicant that is a partnership, corporation, or limited liability
860 company, proper verification evidencing that the person or persons signing the on-premise beer
861 retailer licensee application are authorized to so act on the behalf of the partnership,
862 corporation, or limited liability company; and

- 863 (1) any other information the department may require.
- 864 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
865 year.
- 866 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
867 person's on-premise beer retailer license shall submit by no later than January 31:
- 868 (A) a completed renewal application to the department; and
869 (B) a renewal fee in the following amount:
- 870 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
871 is \$200; or
- 872 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
873 \$1,000.
- 874 (ii) A licensee is not required to submit a renewal fee if the licensee is:
- 875 (A) a state agency; or
876 (B) a political subdivision of the state including:
- 877 (I) a county; or
878 (II) a municipality.
- 879 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
880 the license, effective on the date the existing license expires.
- 881 (d) A renewal statement shall be in a form as prescribed by the department.
- 882 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
883 suspend or revoke a beer retailer license if a beer retailer licensee does not immediately notify
884 the department of any change in:
- 885 (a) ownership of the beer retailer;
886 (b) for a corporate owner, the:
- 887 (i) corporate officers or directors; and
888 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
889 corporation; or
- 890 (c) for a limited liability company:
- 891 (i) managers; or
892 (ii) members owning at least 20% of the limited liability company.
- 893 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and

894 (f) if the applicant is:

895 (a) a state agency; or

896 (b) a political subdivision of the state including:

897 (i) a county; or

898 (ii) a municipality.

899 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
900 license is required for each building or resort facility owned or leased by the same applicant.

901 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
902 retail beer dispensing outlet located in the same building or on the same resort premises owned
903 or operated by the same applicant.

904 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
905 in the building or resort facility operate in the same manner.

906 (ii) If the condition described in Subsection (5)(c)(i) is not met:

907 (A) one state on-premise beer retailer tavern license is required for all outlets in the
908 same building or on the same resort premises that operate as a tavern; and

909 (B) one state on-premise beer retailer license is required for all outlets in the same
910 building or on the same resort premises that do not operate as a tavern.

911 Section 11. Section **32A-10-207** is enacted to read:

912 **32A-10-207. Information obtained by investigator.**

913 (1) As used in this section:

914 (a) "Investigator" means an individual who is:

915 (i) (A) an auditor or inspector; and

916 (B) employed by the department; or

917 (ii) (A) a peace officer, examiner, or investigator; and

918 (B) employed by a nondepartment enforcement agency.

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

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

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

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

924 (c) (i) "Record" means information that is:

- 925 (A) inscribed on a tangible medium; or
- 926 (B) stored in an electronic or other medium and is retrievable in perceivable form.
- 927 (ii) "Record" includes:
- 928 (A) book;
- 929 (B) book of account;
- 930 (C) paper;
- 931 (D) contract;
- 932 (E) agreement;
- 933 (F) document; or
- 934 (G) recording in any medium.

935 (2) (a) Subject to Subsection (2)(b), if an investigator is permitted by another provision
936 of this chapter to inspect a book or record of a on-premise beer retailer licensee that is a tavern,
937 in addition to any other rights under this title, the investigator may inspect, have a copy of, or
938 otherwise review any record of the tavern that is a visual recording of the operations of the
939 tavern.

940 (b) An investigator who is a peace officer may not inspect, have a copy of, or otherwise
941 review a visual recording described in Subsection (2)(a) without probable cause.

942 Section 12. Section **32A-14a-102** is amended to read:

943 **32A-14a-102. Liability for injuries and damage resulting from distribution of**
944 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

945 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection
946 (1)(b) is liable for:

- 947 (i) any and all injury and damage, except punitive damages to:
- 948 (A) any third person; or
- 949 (B) the heir, as defined in Section 78B-3-105, of that third person; or
- 950 (ii) for the death of a third person.

951 (b) A person is liable under Subsection (1)(a) if:

- 952 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:
- 953 (A) to a person described in Subsection (1)(b)(ii); and
- 954 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
- 955 consumption of alcoholic products;

- 956 (ii) those actions cause the intoxication of:
- 957 (A) any individual under the age of 21 years;
- 958 (B) any individual who is apparently under the influence of intoxicating alcoholic
959 products or drugs;
- 960 (C) any individual whom the person furnishing the alcoholic beverage knew or should
961 have known from the circumstances was under the influence of intoxicating alcoholic
962 beverages or products or drugs; or
- 963 (D) any individual who is a known interdicted person; and
- 964 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
965 the individual who is provided the alcoholic beverage.
- 966 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable
967 for:
- 968 (i) any and all injury and damage, except punitive damages to:
- 969 (A) any third person; or
- 970 (B) the heir, as defined in Section 78B-3-105, of that third person; or
- 971 (ii) for the death of the third person.
- 972 (b) A person is liable under Subsection (2)(a) if:
- 973 (i) that person directly gives or otherwise provides an alcoholic beverage to an
974 individual who the person knows or should have known is under the age of 21 years;
- 975 (ii) those actions caused the intoxication of the individual provided the alcoholic
976 beverage;
- 977 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
978 the individual who is provided the alcoholic beverage; and
- 979 (iv) the person is not liable under Subsection (1), because the person did not directly
980 give or provide the alcoholic beverage as part of the commercial sale, storage, service,
981 manufacture, distribution, or consumption of alcoholic products.
- 982 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its
983 employees in violation of this chapter.
- 984 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action
985 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).
- 986 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities

987 provided by this chapter survive to or against that person's estate.

988 (6) The total amount that may be awarded to any person pursuant to a cause of action
989 for injury and damage under this chapter that arises after [~~January 1, 1998~~] January 1, 2010, is
990 limited to [~~\$500,000~~] \$1,000,000 and the aggregate amount which may be awarded to all
991 persons injured as a result of one occurrence is limited to [~~\$1,000,000~~] \$2,000,000.

992 (7) An action based upon a cause of action under this chapter shall be commenced
993 within two years after the date of the injury and damage.

994 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery
995 against the person causing the injury.

996 (b) Any cause of action or additional recovery against the person causing the injury and
997 damage, which action is not brought under this chapter, is exempt from the damage cap in
998 Subsection (6).

999 (c) Any cause of action brought under this chapter is exempt from Sections 78B-5-817
1000 through 78B-5-823.

1001 (9) This section does not apply to a business licensed under Chapter 10, Part 1, General
1002 Provisions, to sell beer at retail only for off-premise consumption.

1003 **Section 13. Effective date.**

1004 This bill takes effect on May 12, 2009 except the amendments in this bill to the
1005 following take effect on January 1, 2010:

1006 (1) Section 32A-4-102;

1007 (2) Section 32A-4-202;

1008 (3) Section 32A-4-303;

1009 (4) Section 32A-4-402;

1010 (5) Section 32A-5-102;

1011 (6) Section 32A-10-202; and

1012 (7) Section 32A-14a-102.