

Senator Scott D. McCoy proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT

RESTRICTIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address restrictions related to packaging, marking, and state labels.

Highlighted Provisions:

This bill:

- ▶ removes requirements related to state labels and markings;
- ▶ prohibits tampering with a package of an alcoholic beverage; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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



26 **32A-3-106**, as last amended by Laws of Utah 2008, Chapter 266
27 **32A-12-212**, as last amended by Laws of Utah 2008, Chapter 391
28 **32A-12-219**, as renumbered and amended by Laws of Utah 1990, Chapter 23

29 REPEALS:

30 **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314

31

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

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

34 **32A-1-105. Definitions.**

35 As used in this title:

36 (1) "Airport lounge" means a place of business licensed to sell an alcoholic beverage,
37 at retail, for consumption on its premises located at an international airport with a United States
38 Customs office on the premises of the international airport.

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

40 (a) beer;

41 (b) flavored malt beverage; and

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

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

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

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

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

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

51 (ii) vinegar;

52 (iii) cider;

53 (iv) essence;

54 (v) tincture;

55 (vi) food preparation; or

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

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

59 (4) "Bar" means a counter or similar structure:

60 (a) at which an alcoholic beverage is:

61 (i) stored; or

62 (ii) dispensed; or

63 (b) from which an alcoholic beverage is served.

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

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

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

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

69 (c) Beer includes a product that:

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

71 (ii) is referred to as:

72 (A) beer;

73 (B) ale;

74 (C) porter;

75 (D) stout;

76 (E) lager; or

77 (F) a malt or malted beverage.

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

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

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

83 (ii) licensed to sell beer by:

84 (A) the commission;

85 (B) a local authority; or

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

87 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of

88 beer to a patron for consumption off the beer retailer's premises.

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

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

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

94 (a) a light device;

95 (b) a painting;

96 (c) a drawing;

97 (d) a poster;

98 (e) a sign;

99 (f) a signboard; or

100 (g) a scoreboard.

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

102 (a) beer;

103 (b) heavy beer; or

104 (c) a flavored malt beverage.

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

106 (a) at:

107 (i) a banquet; or

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

109 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
110 beverage.

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

113 (a) under a single contract;

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

115 (c) for the purpose of giving the group of persons the exclusive use of the passenger
116 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
117 destinations.

118 (11) "Church" means a building:

- 119 (a) set apart for the purpose of worship;
- 120 (b) in which religious services are held;
- 121 (c) with which clergy is associated; and
- 122 (d) which is tax exempt under the laws of this state.
- 123 (12) "Club" and "private club" means any of the following organized primarily for the
- 124 benefit of its members:
- 125 (a) a social club;
- 126 (b) a recreational association;
- 127 (c) a fraternal association;
- 128 (d) an athletic association; or
- 129 (e) a kindred association.
- 130 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 131 (14) "Community location" means:
- 132 (a) a public or private school;
- 133 (b) a church;
- 134 (c) a public library;
- 135 (d) a public playground; or
- 136 (e) a public park.
- 137 (15) "Community location governing authority" means:
- 138 (a) the governing body of the community location; or
- 139 (b) if the commission does not know who is the governing body of a community
- 140 location, a person who appears to the commission to have been given on behalf of the
- 141 community location authority to prohibit an activity at the community location.
- 142 (16) "Department" means the Department of Alcoholic Beverage Control.
- 143 (17) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 144 title:
- 145 (a) against:
- 146 (i) a permittee;
- 147 (ii) a licensee;
- 148 (iii) a manufacturer;
- 149 (iv) a supplier;

150 (v) an importer;
151 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

152 or

153 (vii) an officer, employee, or agent of:
154 (A) a person listed in Subsections (17)(a)(i) through (vi); or
155 (B) a package agent; and
156 (b) that is brought on the basis of a violation of this title.

157 (18) "Director," unless the context requires otherwise, means the director appointed
158 under Section 32A-1-108.

159 (19) "Distressed merchandise" means an alcoholic beverage in the possession of the
160 department that is saleable, but for some reason is unappealing to the public.

161 (20) "Flavored malt beverage" means a beverage:

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

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

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

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

171 (21) "Guest" means a person accompanied by an active member or visitor of a club
172 who enjoys only those privileges derived from the host for the duration of the visit to the club.

173 (22) (a) "Heavy beer" means a product that:

174 (i) contains more than 4% alcohol by volume; and
175 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

177 (23) "Hosted bar" means the service of an alcoholic beverage:

178 (a) without charge; and

179 (b) at a:

180 (i) banquet; or

181 (ii) privately hosted event.

182 (24) "Identification card" means an identification card issued under Title 53, Chapter 3,
183 Part 8, Identification Card Act.

184 (25) "Interdicted person" means a person to whom the sale, gift, or provision of an
185 alcoholic beverage is prohibited by:

186 (a) law; or

187 (b) court order.

188 (26) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
189 person is under the influence of:

190 (a) an alcoholic beverage;

191 (b) a controlled substance;

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

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

194 (27) "Licensee" means a person issued a license by the commission to sell,
195 manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
196 controlled by the person.

197 (28) "Limousine" means a motor vehicle licensed by the state or a local authority, other
198 than a bus or taxicab:

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

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

204 (29) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous, fermented,
205 malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or
206 fermented, or other drink, or drinkable liquid that:

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

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

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

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

211 (30) "Local authority" means:

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

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

216 (31) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
217 otherwise make an alcoholic product for personal use or for sale or distribution to others.

218 (32) "Member" means a person who, after paying regular dues, has full privileges of a
219 club under this title.

220 (33) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
221 or homeport facility for a ship:

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

223 (B) of the National Guard;

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

225 (iii) including a leased facility.

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

227 (i) civil works;

228 (ii) a rivers and harbors project; or

229 (iii) a flood control project.

230 (34) "Minor" means an individual under the age of 21 years.

231 (35) "Nude," "nudity," or "state of nudity" means:

232 (a) the appearance of:

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

234 (ii) a human genital;

235 (iii) a human pubic area; or

236 (iv) a human anus; or

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

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

239 (ii) a human genital;

240 (iii) a human pubic area; or

241 (iv) a human anus.

242 (36) "Outlet" means a location other than a state store or package agency where an

243 alcoholic beverage is sold pursuant to a license issued by the commission.

244 (37) "Package" means any of the following containing liquor:

245 (a) a container;

246 (b) a bottle;

247 (c) a vessel; or

248 (d) other receptacle.

249 (38) "Package agency" means a retail liquor location operated:

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

251 (b) by a person:

252 (i) other than the state; and

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

255 (39) "Package agent" means a person permitted by the commission to operate a
256 package agency pursuant to a contractual agreement with the department to sell liquor from
257 premises that the package agent shall provide and maintain.

258 (40) "Permittee" means a person issued a permit by the commission to perform an act
259 or exercise a privilege as specifically granted in the permit.

260 (41) "Person" means an individual, partnership, firm, corporation, limited liability
261 company, association, business trust, or other form of business enterprise, including a receiver
262 or trustee, and the plural as well as the singular number, unless the intent to give a more limited
263 meaning is disclosed by the context.

264 (42) "Premises" means a building, enclosure, room, or equipment used in connection
265 with the sale, storage, service, manufacture, distribution, or consumption of an alcoholic
266 product, unless otherwise defined in this title or in the rules adopted by the commission.

267 (43) "Prescription" means a writing in legal form, signed by a physician or dentist and
268 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

269 (44) (a) "Privately hosted event" or "private social function" means a specific social,
270 business, or recreational event:

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

273 (ii) that is limited in attendance to people who are specifically designated and their

274 guests.

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

277 (45) (a) "Proof of age" means:

278 (i) an identification card;

279 (ii) an identification that:

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

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

283 (C) includes date of birth; and

284 (D) has a picture affixed;

285 (iii) a valid driver license certificate that:

286 (A) includes date of birth;

287 (B) has a picture affixed; and

288 (C) is issued:

289 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

290 (II) in accordance with the laws of the state in which it is issued;

291 (iv) a military identification card that:

292 (A) includes date of birth; and

293 (B) has a picture affixed; or

294 (v) a valid passport.

295 (b) "Proof of age" does not include a driving privilege card issued in accordance with
296 Section 53-3-207.

297 (46) (a) "Public building" means a building or permanent structure owned or leased by
298 the state, a county, or local government entity that is used for:

299 (i) public education;

300 (ii) transacting public business; or

301 (iii) regularly conducting government activities.

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

305 (47) "Representative" means an individual who is compensated by salary, commission,
306 or other means for representing and selling an alcoholic beverage product of a manufacturer,
307 supplier, or importer of liquor including:

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

311 (48) "Residence" means a person's principal place of abode within Utah.

312 (49) "Restaurant" means a business establishment:

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

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

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

318 (50) "Retailer" means a person engaged in the sale or distribution of an alcoholic
319 beverage to a consumer.

320 (51) (a) "Sample" includes:

- 321 (i) a department sample; and
- 322 (ii) an industry representative sample.

323 (b) "Department sample" means liquor that is placed in the possession of the
324 department for testing, analysis, and sampling including:

- 325 (i) wine;
- 326 (ii) heavy beer; or
- 327 (iii) [~~on or after October 1, 2008;~~] a flavored malt beverage.

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

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

333 (ii) including:

- 334 (A) wine;
- 335 (B) heavy beer; or

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

337 (52) (a) "School" means a building used primarily for the general education of minors.

338 (b) "School" does not include:

339 (i) a nursery school;

340 (ii) an infant day care center; or

341 (iii) a trade or technical school.

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

347 (54) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
348 which opaque clothing covers no more than:

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

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

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

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

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

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

356 (55) "Sexually oriented entertainer" means a person who while in a state of seminudity
357 appears at or performs:

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

359 (b) on the premises of:

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

361 (ii) a tavern;

362 (c) on behalf of or at the request of the licensee described in Subsection (55)(b);

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

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

365 (i) an employee of the licensee described in Subsection (55)(b);

366 (ii) an independent contractor of the licensee described in Subsection (55)(b);

- 367 (iii) an agent of the licensee described in Subsection (55)(b); or
- 368 (iv) otherwise of the licensee described in Subsection (55)(b).
- 369 (56) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 370 beer, heavy beer, and flavored malt beverages per year.
- 371 (57) (a) "Spirituous liquor" means liquor that is distilled.
- 372 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 373 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 374 [~~(58) (a) "State label" means the official label designated by the commission affixed to~~
- 375 ~~a liquor container sold in the state.]~~
- 376 [~~(b) "State label" includes the department identification mark and inventory control~~
- 377 ~~number.]~~
- 378 [~~(59)~~ (58) (a) "State store" means a facility for the sale of package liquor:
- 379 (i) located on premises owned or leased by the state; and
- 380 (ii) operated by a state employee.
- 381 (b) "State store" does not apply to a:
- 382 (i) licensee;
- 383 (ii) permittee; or
- 384 (iii) package agency.
- 385 [~~(60)~~ (59) "Supplier" means a person selling an alcoholic beverage to the department.
- 386 [~~(61)~~ (60) (a) "Tavern" means a business establishment that is:
- 387 (i) engaged primarily in the retail sale of beer to a public patron for consumption on the
- 388 establishment's premises; and
- 389 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 390 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 391 revenue of the sale of food, although food need not be sold in the establishment:
- 392 (i) a beer bar;
- 393 (ii) a parlor;
- 394 (iii) a lounge;
- 395 (iv) a cabaret; or
- 396 (v) a nightclub.
- 397 [~~(62)~~ (61) "Temporary domicile" means the principal place of abode within Utah of a

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

400 [~~(63)~~] (62) "Unsaleable liquor merchandise" means merchandise that:

401 (a) is unsaleable because the merchandise is:

402 (i) unlabeled;

403 (ii) leaky;

404 (iii) damaged;

405 (iv) difficult to open; or

406 (v) partly filled;

407 (b) is in a container:

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

409 (ii) in which the contents are:

410 (A) cloudy;

411 (B) spoiled; or

412 (C) chemically determined to be impure; or

413 (iii) that contains:

414 (A) sediment; or

415 (B) a foreign substance; or

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

417 [~~(64)~~] (63) "Visitor" means an individual that in accordance with Section 32A-5-107

418 holds limited privileges in a private club by virtue of a visitor card.

419 [~~(65)~~] (64) "Warehouser" means a person, other than a licensed manufacturer, engaged

420 in the importation for sale, storage, or distribution of liquor regardless of amount.

421 [~~(66)~~] (65) (a) "Wholesaler" means a person engaged in the importation for sale, or in
422 the sale of beer in wholesale or jobbing quantities to one or more retailers.

423 (b) Notwithstanding Subsection [~~(66)~~] (65)(a), "wholesaler" does not include a small
424 brewer selling beer manufactured by that brewer.

425 [~~(67)~~] (66) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the
426 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
427 another ingredient is added.

428 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise

429 provided in this title.

430 Section 2. Section **32A-1-109** is amended to read:

431 **32A-1-109. Powers and duties of the director.**

432 Subject to the powers and responsibilities vested in the commission by this title the
433 director shall:

434 (1) prepare and propose to the commission one or more general policies, directives,
435 rules, and procedures governing the administrative activities of the department, and may
436 submit other recommendations to the commission as the director considers in the interest of
437 ~~[its]~~ the commission's or the department's business;

438 (2) within the general policies, directives, rules, and procedures of the commission~~[-];~~;

439 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the
440 administrative activities of the department's business; and ~~[promulgate]~~

441 (b) make one or more internal department policies, directives, rules, and procedures
442 relating to department personnel matters, and the day-to-day operation of the department
443 consistent with those of the commission;

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

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

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

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

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

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

457 (a) a department office;

458 (b) a warehouse;

459 (c) a state store;

- 460 (d) a package agency; and
461 (e) a licensee;
462 (5) within the policies, directives, rules, and procedures approved by the commission
463 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,
464 transportation, and delivery of an alcoholic [products] product;
465 (6) prepare for commission approval:
466 (a) one or more recommendations regarding the location, establishment, relocation, and
467 closure of [~~state stores and package agencies~~] a state store or package agency;
468 (b) one or more recommendations regarding the issuance, suspension, nonrenewal, and
469 revocation of [~~licenses and permits~~] a license or permit;
470 (c) an annual [~~budgets~~] budget, proposed legislation, and one or more reports as
471 required by law and sound business principles;
472 (d) one or more plans for reorganizing divisions of the department and [~~their~~] the
473 functions of the divisions;
474 (e) one or more manuals containing [~~all~~] commission and department policies,
475 directives, rules, and procedures;
476 (f) an inventory control system;
477 (g) any other [~~reports and recommendations~~] report or recommendation as may be
478 requested by the commission;
479 (h) one or more rules governing the credit terms of the sale of beer [~~sales~~] to a beer
480 retailer [~~licensees~~] licensee;
481 (i) one or more rules governing the calibration, maintenance, and regulation of a
482 calibrated metered dispensing [~~systems~~] system;
483 (j) one or more rules governing the posting of a list of types and brand names of liquor
484 [~~being~~] served through a calibrated metered dispensing [~~systems~~] system;
485 (k) one or more price lists issued and distributed showing the price to be paid for each
486 class, variety, or brand of liquor kept for sale at a state [~~stores, package agencies, and outlets~~]
487 store, package agency, or outlet;
488 (l) one or more directives prescribing the books of account kept by the department and
489 by a state [~~stores, package agencies, and outlets;~~] store, package agency, or outlet; and
490 [~~(m) an official state label and the manner in which the label shall be affixed to every~~

491 ~~package of liquor sold under this title; and]~~

492 ~~[(m)]~~ (m) a policy prescribing the manner of giving and serving ~~[notices]~~ a notice
493 required by this title or rules made under this title;

494 (7) make available through the department to any person, upon request, a copy of ~~[any]~~
495 a policy or directive ~~[promulgated]~~ made by the director;

496 ~~[(8) adopt internal departmental policies, directives, rules, and procedures relating to~~
497 ~~department personnel matters and the day-to-day operation of the department that are~~
498 ~~consistent with those of the commission;]~~

499 ~~[(9)]~~ (8) keep a current copy of ~~[the manuals containing]~~ a manual that contains the
500 rules and policies of the department and commission available for public inspection;

501 ~~[(10)]~~ (9) (a) after consultation with the governor, determine whether an alcoholic
502 ~~[products]~~ product should not be sold, offered for sale, or otherwise furnished in an area of the
503 state during a period of emergency that is proclaimed by the governor to exist in that area; and

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

506 ~~[(11)]~~ (10) perform other duties required by the commission and by law.

507 Section 3. Section **32A-2-103** is amended to read:

508 **32A-2-103. Operational restrictions.**

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

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

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

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

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

516 ~~[(4)]~~ (3) Liquor may not be sold except at prices fixed by the commission.

517 ~~[(5)]~~ (4) Liquor may not be sold, delivered, or furnished to ~~[any]~~ a:

518 (a) minor;

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

520 (c) known habitual drunkard; or

521 (d) known interdicted person.

522 ~~[(6)]~~ (5) Sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a
523 state store, nor may ~~[any]~~ a state store be kept open for the sale of liquor:

524 (a) on Sunday;

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

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

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

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

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

538 ~~[(8)]~~ (7) (a) A minor may not be admitted into, or be on the premises of a state store
539 unless accompanied by a person who is:

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

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

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

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

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

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

550 (c) ~~[Any]~~ A state store employee shall refuse to sell liquor to the suspected minor and
551 to the person who ~~[accompanied]~~ accompanies the suspected minor into the state store if ~~[they~~
552 ~~fail]~~ the suspected minor or person fails to provide ~~[any of the]~~ information specified in

553 Subsection ~~[(8)]~~ (7)(b).

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

558 Section 4. Section **32A-3-106** is amended to read:

559 **32A-3-106. Operational restrictions.**

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

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

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

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

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

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

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

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

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

579 ~~[(6)]~~ (5) A package agency may not display liquor or price lists in windows or
580 showcases visible to passersby.

581 ~~[(7)]~~ (6) (a) An officer, agent, clerk, or employee of a package agency may not
582 consume or allow to be consumed by any person any alcoholic beverage on the premises of a
583 package agency.

584 (b) Violation of this Subsection [~~(7)~~] (6) is a class B misdemeanor.
585 [~~(8)~~] (7) Liquor may not be sold except at prices fixed by the commission.
586 [~~(9)~~] (8) Liquor may not be sold, delivered, or furnished to any:
587 (a) minor;
588 (b) person actually, apparently, or obviously intoxicated;
589 (c) known habitual drunkard; or
590 (d) known interdicted person.
591 [~~(10)~~] (9) (a) Subject to Subsection [~~(10)~~] (9)(b), sale or delivery of liquor may not be
592 made on or from the premises of any package agency nor may any package agency be kept
593 open for the sale of liquor:
594 (i) (A) on Sunday; or
595 (B) on a state or federal legal holiday; and
596 (ii) except on days and during hours as the commission may direct by rule or order.
597 (b) The restrictions in Subsection [~~(10)~~] (9)(a)(i) govern unless:
598 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing
599 Licenses;
600 (ii) the winery licensed under Chapter 8, Manufacturing Licenses, holds:
601 (A) a restaurant liquor license under Chapter 4, Part 1, Restaurant Liquor Licenses; or
602 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;
603 (iii) the restaurant described in Subsection [~~(10)~~] (9)(b)(ii) is located at the winery;
604 (iv) the restaurant described in Subsection [~~(10)~~] (9)(b)(ii) sells wines produced at the
605 winery;
606 (v) the winery described in Subsection [~~(10)~~] (9)(b)(i):
607 (A) owns the restaurant; or
608 (B) operates the restaurant;
609 (vi) the package agency only sells wine produced at the winery; and
610 (vii) the package agency's days and hours of sale are the same as the days and hours of
611 sale at the restaurant described in Subsection [~~(10)~~] (9)(b)(ii).
612 (c) (i) In addition to the requirements of Subsection [~~(10)~~] (9)(a), the sale or delivery of
613 liquor may not be made on or from the premises of a package agency described in Subsection
614 [~~(10)~~] (9)(c)(ii) and a package agency described in Subsection [~~(10)~~] (9)(c)(ii) may not be open

615 for the sale of liquor until after the polls are closed:

616 (A) on a day on which is held:

617 (I) a regular general election;

618 (II) a regular primary election; or

619 (III) a statewide special election; or

620 (B) on a day on which is held a municipal, local district, special service district, or
621 school election if:

622 (I) the package agency is within the boundaries of the municipality, local district,
623 special service district, or school district holding the election; and

624 (II) the municipality, local district, special service district, or school district in which
625 the election is held notifies the department at least 30 days before the day on which the election
626 is held.

627 (ii) This Subsection [~~(10)~~] (9)(c) applies to a package agency that contracts with the
628 department to sell liquor in a manner similar to a state store, whether or not the operator of the
629 package agency has a source of income that is not from the sale of liquor.

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

633 [~~(11)~~] (10) The package agency certificate issued by the commission shall be
634 permanently posted in a conspicuous place in the package agency.

635 [~~(12)~~] (11) Each package agent shall display in a prominent place in the package
636 agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs
637 is a serious crime that is prosecuted aggressively in Utah."

638 [~~(13)~~] (12) (a) A package agency may not close or cease operation for a period longer
639 than 72 hours, unless:

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

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

643 (b) Notwithstanding Subsection [~~(13)~~] (12)(a), in the case of emergency closure,
644 immediate notice of closure shall be made to the department by telephone.

645 (c) (i) The department may authorize a closure or cessation of operation for a period

646 not to exceed 60 days.

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

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

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

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

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

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

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

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

660 [~~(14)~~] (13) Liquor may not be stored or sold in any place other than as designated in the
661 package agent's application, unless the package agent first applies for and receives approval
662 from the department for a change of location within the package agency premises.

663 [~~(15)~~] (14) (a) Except to the extent authorized by commission rule, a minor may not be
664 admitted into, or be on the premises of a package agency unless accompanied by a person who
665 is:

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

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

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

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

672 (ii) ask the person who accompanied the suspected minor for proof of age; and

673 (iii) ask the suspected minor or the person who accompanied the suspected minor for
674 proof of parental, guardianship, or spousal relationship.

675 (c) Any package agent or employee of a package agency shall refuse to sell liquor to
676 the suspected minor and to the person who accompanied the suspected minor into the package

677 agency if they fail to provide any of the information specified in Subsection ~~[(15)]~~ (14)(b).

678 (d) Any package agent or employee of a package agency shall require the suspected
679 minor and the person who accompanied the suspected minor into the package agency to
680 immediately leave the premises of the package agency if they fail to provide any of the
681 information specified in Subsection ~~[(15)]~~ (14)(b).

682 ~~[(16)]~~ (15) A package agency may not transfer its operations from one location to
683 another without prior written approval of the commission.

684 ~~[(17)]~~ (16) (a) A person, having been granted a package agency, may not sell, transfer,
685 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
686 other person, whether for monetary gain or not.

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

688 Section 5. Section **32A-12-212** is amended to read:

689 **32A-12-212. Unlawful possession -- Exceptions.**

690 (1) A person may not have or possess within this state ~~[any]~~ liquor unless authorized
691 by this title or the rules of the commission, except that:

692 (a) a person who clears United States Customs when entering this country may have or
693 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
694 purchased from without the United States;

695 (b) a person who moves the person's residence to this state from outside of this state
696 may have or possess for personal consumption and not for sale or resale, liquor previously
697 purchased outside the state and brought into this state during the move, if:

698 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
699 state; and

700 ~~[(ii) the department affixes the official state label to the liquor; and]~~

701 ~~[(iii)]~~ (ii) the person pays the department a reasonable administrative handling fee as
702 determined by the commission;

703 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
704 outside the state, may have or possess the liquor and transport or cause the liquor to be
705 transported into the state if:

706 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
707 state;

- 708 (ii) the person provides sufficient documentation to the department to establish the
709 person's legal right to the liquor as a beneficiary; and
710 [~~(iii) the department affixes the official state label to the liquor; and~~]
711 [~~(iv)~~] (iii) the person pays the department a reasonable administrative handling fee as
712 determined by the commission; or
- 713 (d) a person may transport, have, or possess liquor if:
- 714 (i) the person transports, has, or possesses the liquor:
- 715 (A) for personal household use and consumption; and
716 (B) not for:
- 717 (I) sale;
718 (II) resale;
719 (III) gifting to another; or
720 (IV) consumption on a premise licensed by the commission;
- 721 (ii) the liquor is purchased from a store or outlet on a military installation; and
722 (iii) the maximum amount the person transports, has, or possesses under this
723 Subsection (1)(d) is:
- 724 (A) two liters of:
- 725 (I) spirituous liquor;
726 (II) wine; or
727 (III) a combination of spirituous liquor and wine; and
728 (B) (I) one case of heavy beer that does not exceed 288 ounces; or
729 (II) [~~on or after October 1, 2008;~~] one case of a flavored malt beverage that does not
730 exceed 288 ounces.
- 731 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
- 732 (i) is transferring the person's permanent residence to this state; or
733 (ii) maintains separate residences both in and out of this state.
- 734 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
735 than once.
- 736 Section 6. Section **32A-12-219** is amended to read:
- 737 **32A-12-219. Unlawful adulteration -- Licensing tampering.**
738 (1) For purposes of this section, "tamper" means to do one or more of the following to

739 the contents of a package:

740 (a) fortify;

741 (b) adulterate;

742 (c) contaminate;

743 (d) dilute;

744 (e) change its character or purity; or

745 (f) otherwise change.

746 (2) A person may not, for any purpose, mix or allow to be mixed [any drug, methylic
747 alcohol, any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious
748 substance or liquid] with an alcoholic beverage sold or supplied by the person as a beverage[.]

749 any of the following:

750 (a) a drug;

751 (b) methylic alcohol;

752 (c) a crude, unrectified, or impure form of ethylic alcohol; or

753 (d) another deleterious substance.

754 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

755 (i) a retail licensee;

756 (ii) a permittee;

757 (iii) a package agent;

758 (iv) a beer wholesaler;

759 (v) a supplier;

760 (vi) an importer; or

761 (vii) a warehouse.

762 (b) A person listed in Subsection (3)(a) may not:

763 (i) tamper with the contents of a package of alcoholic beverage as originally marketed
764 by a manufacturer;

765 (ii) refill or partly refill with any substance the contents of an original package of
766 alcoholic beverage as originally marketed by a manufacturer;

767 (iii) misrepresent the brand of an alcoholic beverage sold or offered for sale; or

768 (iv) sell or serve a brand of alcoholic beverage that is not the same as that ordered by a
769 purchaser without first advising the purchaser of the difference.

770 Section 7. **Repealer.**
771 This bill repeals:
772 Section **32A-12-218, Unlawful labeling or lack of label.**