

**ALCOHOLIC BEVERAGE CONTROL ACT -
DAYS OF SALE**

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 offering, selling, serving, furnishing, or consuming an alcoholic beverage.

Highlighted Provisions:

This bill:

- ▶ removes restrictions related to election days; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

Section 1. Section **32A-2-103** is amended to read:

32A-2-103. Operational restrictions.



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

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

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

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

33 (3) All liquor sold shall be in packages that are properly marked and labeled in
34 accordance with the rules adopted under this title.

35 (4) Liquor may not be sold except at prices fixed by the commission.

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

37 (a) minor;

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

39 (c) known habitual drunkard; or

40 (d) known interdicted person.

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

43 (a) on Sunday;

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

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

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

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

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

57 (8) (a) A minor may not be admitted into, or be on the premises of a state store unless
58 accompanied by a person who is:

- 59 (i) 21 years of age or older; and
60 (ii) the minor's parent, legal guardian, or spouse.
- 61 (b) ~~[Any]~~ A state store employee that has reason to believe that a person who is on the
62 premises of a state store is under the age of 21 and is not accompanied by a person described in
63 Subsection (8)(a) may:
- 64 (i) ask the suspected minor for proof of age;
65 (ii) ask the person who ~~[accompanied]~~ accompanies the suspected minor for proof of
66 age; and
67 (iii) ask the suspected minor or the person who ~~[accompanied]~~ accompanies the
68 suspected minor for proof of parental, guardianship, or spousal relationship.
- 69 (c) ~~[Any]~~ A state store employee shall refuse to sell liquor to the suspected minor and
70 to the person who ~~[accompanied]~~ accompanies the suspected minor into the state store if ~~[they~~
71 fail] the suspected minor or person fails to provide ~~[any of the]~~ information specified in
72 Subsection (8)(b).
- 73 (d) ~~[Any]~~ A state store employee shall require ~~[the]~~ a suspected minor and the person
74 who ~~[accompanied]~~ accompanies the suspected minor into the state store to immediately leave
75 the premises of the state store if ~~[they fail]~~ the suspected minor or person fails to provide ~~[any~~
76 of the] information specified in Subsection (8)(b).
- 77 Section 2. Section **32A-3-106** is amended to read:
78 **32A-3-106. Operational restrictions.**
- 79 (1) (a) A package agency may not be operated until a package agency agreement has
80 been entered into by the package agent and the department.
- 81 (b) The agreement shall state the conditions of operation by which the package agent
82 and the department are bound.
- 83 (c) If the package agent violates the conditions, terms, or covenants contained in the
84 agreement or violates any provisions of this title, the department may take whatever action
85 against the agent that is allowed by the package agency agreement.
- 86 (d) Actions against the package agent are governed solely by the agreement and may
87 include suspension or revocation of the agency.
- 88 (2) (a) A package agency may not purchase liquor from any person except from the
89 department.

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

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

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

96 (5) All liquor sold shall be in packages that are properly marked and labeled in
97 accordance with the rules adopted under this title.

98 (6) A package agency may not display liquor or price lists in windows or showcases
99 visible to passersby.

100 (7) (a) An officer, agent, clerk, or employee of a package agency may not consume or
101 allow to be consumed by any person any alcoholic beverage on the premises of a package
102 agency.

103 (b) Violation of this Subsection (7) is a class B misdemeanor.

104 (8) Liquor may not be sold except at prices fixed by the commission.

105 (9) Liquor may not be sold, delivered, or furnished to any:

106 (a) minor;

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

108 (c) known habitual drunkard; or

109 (d) known interdicted person.

110 (10) (a) Subject to Subsection (10)(b), sale or delivery of liquor may not be made on or
111 from the premises of any package agency nor may any package agency be kept open for the sale
112 of liquor:

113 (i) (A) on Sunday; or

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

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

116 (b) The restrictions in Subsection (10)(a)(i) govern unless:

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

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

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

- 121 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;
 122 (iii) the restaurant described in Subsection (10)(b)(ii) is located at the winery;
 123 (iv) the restaurant described in Subsection (10)(b)(ii) sells wines produced at the
 124 winery;
 125 (v) the winery described in Subsection (10)(b)(i):
 126 (A) owns the restaurant; or
 127 (B) operates the restaurant;
 128 (vi) the package agency only sells wine produced at the winery; and
 129 (vii) the package agency's days and hours of sale are the same as the days and hours of
 130 sale at the restaurant described in Subsection (10)(b)(ii).

131 ~~[(c) (i) In addition to the requirements of Subsection (10)(a), the sale or delivery of~~
 132 ~~liquor may not be made on or from the premises of a package agency described in Subsection~~
 133 ~~(10)(c)(ii) and a package agency described in Subsection (10)(c)(ii) may not be open for the~~
 134 ~~sale of liquor until after the polls are closed.]~~

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

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

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

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

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

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

143 ~~[(H) the municipality, local district, special service district, or school district in which~~
 144 ~~the election is held notifies the department at least 30 days before the day on which the election~~
 145 ~~is held.]~~

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

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

152 (11) The package agency certificate issued by the commission shall be permanently
153 posted in a conspicuous place in the package agency.

154 (12) Each package agent shall display in a prominent place in the package agency a
155 sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a
156 serious crime that is prosecuted aggressively in Utah."

157 (13) (a) A package agency may not close or cease operation for a period longer than 72
158 hours, unless:

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

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

162 (b) Notwithstanding Subsection (13)(a), in the case of emergency closure, immediate
163 notice of closure shall be made to the department by telephone.

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

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

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

170 (d) The notice required by Subsection (13)(a) shall include:

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

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

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

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

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

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

182 (15) (a) Except to the extent authorized by commission rule, a minor may not be

183 admitted into, or be on the premises of a package agency unless accompanied by a person who
184 is:

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

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

187 (b) Any package agent or employee of the package agency that has reason to believe
188 that a person who is on the premises of a package agency store is under the age of 21 and is not
189 accompanied by a person described in Subsection (15)(a) may:

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

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

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

194 (c) Any package agent or employee of a package agency shall refuse to sell liquor to
195 the suspected minor and to the person who accompanied the suspected minor into the package
196 agency if they fail to provide any of the information specified in Subsection (15)(b).

197 (d) Any package agent or employee of a package agency shall require the suspected
198 minor and the person who accompanied the suspected minor into the package agency to
199 immediately leave the premises of the package agency if they fail to provide any of the
200 information specified in Subsection (15)(b).

201 (16) A package agency may not transfer its operations from one location to another
202 without prior written approval of the commission.

203 (17) (a) A person, having been granted a package agency, may not sell, transfer, assign,
204 exchange, barter, give, or attempt in any way to dispose of the package agency to any other
205 person, whether for monetary gain or not.

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

Legislative Review Note
as of 2-4-09 11:55 AM

Office of Legislative Research and General Counsel

S.B. 166 - Alcoholic Beverage Control Act - Days of Sale

Fiscal Note

2009 General Session
State of Utah

State Impact

Staying open an additional day will generate extra revenue. On an average day, the system generates approximately \$100,000 in profits on \$495,000 in revenue. Profit increases are transferred to the General Fund.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$100,000	\$100,000
Total	\$0	\$0	\$0	\$0	\$100,000	\$100,000

Individual, Business and/or Local Impact
