

**ALCOHOL AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitional provisions;
- ▶ addresses the nature of an adjudicative proceeding as a civil action including the burden of proof and the general applicability of mens rea requirements;
- ▶ adjusts quotas;
- ▶ addresses proximity for a restaurant liquor or limited restaurant license;
- ▶ addresses dispensing and storage by a restaurant, including providing for a transition;
- ▶ changes the insurance and liability limits related to dramshop;
- ▶ modifies the definition of a "convention center";
- ▶ creates a resort license including:
  - defining terms;
  - providing for licensing, including the creation of sublicenses;
  - establishing a resort amenities sublicense;
  - imposing operational requirements for a resort license;
  - addressing the application of operational requirements to a sublicense;
  - providing for enforcement with relation to a resort license or a sublicense;



- 28           • addressing the application of the Nuisance Licensee Act to a resort license or
- 29 sublicense;
- 30           • providing for the enforcement of criminal penalties; and
- 31           • expanding protections for employees to encompass employees of a resort
- 32 licensee;
- 33           ▶ clarifies the application of criminal procedures, principles, and penalties;
- 34           ▶ provides for a study of penalties related to minors; and
- 35           ▶ makes technical and conforming changes.

**36 Monies Appropriated in this Bill:**

37           None

**38 Other Special Clauses:**

39           This bill provides an effective date.

**40 Utah Code Sections Affected:**

41 **AMENDS:**

- 42           **32A-1-105**, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391
- 43           **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162
- 44           **32A-1-115**, as last amended by Laws of Utah 2008, Chapter 382
- 45           **32A-1-119**, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391
- 46           **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 47           **32A-4-101**, as last amended by Laws of Utah 2008, Chapter 391
- 48           **32A-4-102**, as last amended by Laws of Utah 2008, Chapter 391
- 49           **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 50           **32A-4-202**, as last amended by Laws of Utah 2004, Chapter 268
- 51           **32A-4-302**, as last amended by Laws of Utah 2008, Chapter 391
- 52           **32A-4-303**, as last amended by Laws of Utah 2008, Chapter 391
- 53           **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 54           **32A-4-401**, as last amended by Laws of Utah 2008, Chapter 391
- 55           **32A-4-402**, as last amended by Laws of Utah 2008, Chapter 391
- 56           **32A-5-101**, as last amended by Laws of Utah 2008, Chapter 391
- 57           **32A-5-102**, as last amended by Laws of Utah 2008, Chapter 391
- 58           **32A-9-103**, as last amended by Laws of Utah 2008, Chapter 382

- 59           **32A-10-202**, as last amended by Laws of Utah 2008, Chapter 391
- 60           **32A-12-101**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 61           **32A-12-102**, as last amended by Laws of Utah 2004, Chapter 268
- 62           **32A-12-104**, as last amended by Laws of Utah 2007, Chapter 322
- 63           **32A-12-213**, as last amended by Laws of Utah 2007, Chapter 284
- 64           **32A-12-222**, as last amended by Laws of Utah 2008, Chapter 391
- 65           **32A-12-301**, as last amended by Laws of Utah 2008, Chapter 391
- 66           **32A-14a-102**, as last amended by Laws of Utah 2008, Chapter 3
- 67           **32A-14a-103**, as enacted by Laws of Utah 2000, Chapter 197

68 ENACTS:

- 69           **32A-1-124**, Utah Code Annotated 1953
- 70           **32A-4a-101**, Utah Code Annotated 1953
- 71           **32A-4a-102**, Utah Code Annotated 1953
- 72           **32A-4a-201**, Utah Code Annotated 1953
- 73           **32A-4a-202**, Utah Code Annotated 1953
- 74           **32A-4a-203**, Utah Code Annotated 1953
- 75           **32A-4a-204**, Utah Code Annotated 1953
- 76           **32A-4a-205**, Utah Code Annotated 1953
- 77           **32A-4a-301**, Utah Code Annotated 1953
- 78           **32A-4a-302**, Utah Code Annotated 1953
- 79           **32A-4a-303**, Utah Code Annotated 1953
- 80           **32A-4a-304**, Utah Code Annotated 1953
- 81           **32A-4a-305**, Utah Code Annotated 1953
- 82           **32A-4a-401**, Utah Code Annotated 1953
- 83           **32A-4a-402**, Utah Code Annotated 1953
- 84           **32A-4a-501**, Utah Code Annotated 1953
- 85           **32A-4a-502**, Utah Code Annotated 1953
- 86           **32A-4a-503**, Utah Code Annotated 1953

87 **Uncodified Material Affected:**

88 ENACTS UNCODIFIED MATERIAL

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

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

92 **32A-1-105. Definitions.**

93 As used in this title:

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

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

98 (a) beer;

99 (b) flavored malt beverage; and

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

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

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

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

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

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

109 (ii) vinegar;

110 (iii) cider;

111 (iv) essence;

112 (v) tincture;

113 (vi) food preparation; or

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

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

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

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

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

- 121            ~~(i)~~ (B) dispensed; or
- 122            ~~(b)~~ (ii) from which an alcoholic beverage is served.
- 123            (b) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part
- 124 3, Limited Restaurant Licenses:
- 125            (i) except as provided in Subsection (4)(b)(ii), "bar" means a level surface or structure
- 126 on the premises of a restaurant:
- 127            (A) at which an alcoholic beverage or alcoholic product is:
- 128            (I) stored; or
- 129            (II) dispensed; or
- 130            (B) from which an alcoholic beverage is served; and
- 131            (ii) "bar" does not include a surface or structure on the premises of a restaurant that is
- 132 located in a kitchen or other segregated preparation area that is:
- 133            (A) not visible to a patron of a restaurant; and
- 134            (B) outside of an area used for:
- 135            (I) dining;
- 136            (II) staging; or
- 137            (III) as a lobby or waiting area.
- 138            (5) (a) Subject to Subsection (5)(d), "beer" means a product that:
- 139            (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 140 volume or 3.2% by weight; and
- 141            (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 142            (b) Beer may or may not contain hops or other vegetable products.
- 143            (c) Beer includes a product that:
- 144            (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 145            (ii) is referred to as:
- 146            (A) beer;
- 147            (B) ale;
- 148            (C) porter;
- 149            (D) stout;
- 150            (E) lager; or
- 151            (F) a malt or malted beverage.

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

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

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

157 (ii) licensed to sell beer by:

158 (A) the commission;

159 (B) a local authority; or

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

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

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

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

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

168 (a) a light device;

169 (b) a painting;

170 (c) a drawing;

171 (d) a poster;

172 (e) a sign;

173 (f) a signboard; or

174 (g) a scoreboard.

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

176 (a) beer;

177 (b) heavy beer; or

178 (c) a flavored malt beverage.

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

180 (a) at:

181 (i) a banquet; or

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

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

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

187 (a) under a single contract;

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

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

192 (11) "Church" means a building:

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

194 (b) in which religious services are held;

195 (c) with which clergy is associated; and

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

197 (12) "Club" and "private club" means any of the following organized primarily for the  
198 benefit of its members:

199 (a) a social club;

200 (b) a recreational association;

201 (c) a fraternal association;

202 (d) an athletic association; or

203 (e) a kindred association.

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

205 (14) "Community location" means:

206 (a) a public or private school;

207 (b) a church;

208 (c) a public library;

209 (d) a public playground; or

210 (e) a public park.

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

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

213 (b) if the commission does not know who is the governing body of a community

214 location, a person who appears to the commission to have been given on behalf of the  
215 community location authority to prohibit an activity at the community location.

216 (16) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part  
217 3, Limited Restaurant Licenses:

218 (a) "counter" means a level surface or structure in a dining area of a restaurant where  
219 seating is provided to a patron for service of food; and

220 (b) "counter" does not include a level surface or structure at which an alcoholic  
221 beverage or alcoholic product is:

222 (i) stored; or

223 (ii) dispensed.

224 [~~16~~] (17) "Department" means the Department of Alcoholic Beverage Control.

225 [~~17~~] (18) "Disciplinary proceeding" means an adjudicative proceeding permitted  
226 under this title:

227 (a) against:

228 (i) a permittee;

229 (ii) a licensee;

230 (iii) a manufacturer;

231 (iv) a supplier;

232 (v) an importer;

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

234 or

235 (vii) an officer, employee, or agent of:

236 (A) a person listed in Subsections [~~17~~] (18)(a)(i) through (vi); or

237 (B) a package agent; and

238 (b) that is brought on the basis of a violation of this title.

239 [~~18~~] (19) "Director," unless the context requires otherwise, means the director  
240 appointed under Section 32A-1-108.

241 (20) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part  
242 3, Limited Restaurant Licenses, "dispense" means:

243 (a) drawing of an alcoholic beverage or alcoholic product from an area where it is  
244 stored; and



245 (b) using the alcoholic beverage or alcoholic product described in Subsection (20)(a)  
246 on the premises of the restaurant to mix or prepare an alcoholic beverage for service to a patron  
247 of the restaurant.

248 [~~(19)~~] (21) "Distressed merchandise" means an alcoholic beverage in the possession of  
249 the department that is saleable, but for some reason is unappealing to the public.

250 [~~(20)~~] (22) "Flavored malt beverage" means a beverage:

251 (a) that contains at least .5% alcohol by volume;

252 (b) that is treated by processing, filtration, or another method of manufacture that is not  
253 generally recognized as a traditional process in the production of a beer as described in 27  
254 C.F.R. Sec. 25.55;

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

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

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

260 [~~(21)~~] (23) "Guest" means a person accompanied by an active member or visitor of a  
261 club who enjoys only those privileges derived from the host for the duration of the visit to the  
262 club.

263 [~~(22)~~] (24) (a) "Heavy beer" means a product that:

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

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

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

267 [~~(23)~~] (25) "Hosted bar" means the service of an alcoholic beverage:

268 (a) without charge; and

269 (b) at a:

270 (i) banquet; or

271 (ii) privately hosted event.

272 [~~(24)~~] (26) "Identification card" means an identification card issued under Title 53,  
273 Chapter 3, Part 8, Identification Card Act.

274 [~~(25)~~] (27) "Interdicted person" means a person to whom the sale, gift, or provision of  
275 an alcoholic beverage is prohibited by:

276 (a) law; or

277 (b) court order.

278 ~~[(26)]~~ (28) "Intoxicated" means that ~~[to a degree that is unlawful under Section~~  
279 ~~76-9-701]~~ a person ~~[is under the influence of]:~~

280 (a) is significantly impaired as to the person's mental or physical functions as a result of  
281 the use of:

282 ~~[(a)]~~ (i) an alcoholic beverage;

283 ~~[(b)]~~ (ii) a controlled substance;

284 ~~[(c)]~~ (iii) a substance having the property of releasing toxic vapors; or

285 ~~[(d)]~~ (iv) a combination of Subsections ~~[(26)]~~ (28)(a)(i) through ~~[(c)]~~ (iii); or

286 (b) exhibits plain and easily observed outward manifestations of behavior or physical  
287 signs produced by the over consumption of an alcoholic beverage.

288 (29) "Invitee" is as defined in Section 32A-4a-102.

289 ~~[(27)]~~ (30) "Licensee" means a person issued a license by the commission to sell,  
290 manufacture, store, or allow consumption of an alcoholic beverage on premises owned or  
291 controlled by the person.

292 ~~[(28)]~~ (31) "Limousine" means a motor vehicle licensed by the state or a local  
293 authority, other than a bus or taxicab:

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

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

299 ~~[(29)]~~ (32) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,  
300 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,  
301 vinous, or fermented, or other drink, or drinkable liquid that:

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

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

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

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

306 ~~[(30)]~~ (33) "Local authority" means:

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

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

311 [~~(31)~~] (34) "Manufacture" means to distill, brew, rectify, mix, compound, process,  
312 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to  
313 others.

314 [~~(32)~~] (35) "Member" means a person who, after paying regular dues, has full  
315 privileges of a club under this title.

316 [~~(33)~~] (36) (a) "Military installation" means a base, air field, camp, post, station, yard,  
317 center, or homeport facility for a ship:

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

319 (B) of the National Guard;

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

321 (iii) including a leased facility.

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

323 (i) civil works;

324 (ii) a rivers and harbors project; or

325 (iii) a flood control project.

326 [~~(34)~~] (37) "Minor" means an individual under the age of 21 years.

327 [~~(35)~~] (38) "Nude," "nudity," or "state of nudity" means:

328 (a) the appearance of:

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

330 (ii) a human genital;

331 (iii) a human pubic area; or

332 (iv) a human anus; or

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

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

335 (ii) a human genital;

336 (iii) a human pubic area; or

337 (iv) a human anus.

338            [~~(36)~~] (39) "Outlet" means a location other than a state store or package agency where  
339 an alcoholic beverage is sold pursuant to a license issued by the commission.

340            [~~(37)~~] (40) "Package" means any of the following containing liquor:

341            (a) a container;

342            (b) a bottle;

343            (c) a vessel; or

344            (d) other receptacle.

345            [~~(38)~~] (41) "Package agency" means a retail liquor location operated:

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

347            (b) by a person:

348            (i) other than the state; and

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

351            [~~(39)~~] (42) "Package agent" means a person permitted by the commission to operate a  
352 package agency pursuant to a contractual agreement with the department to sell liquor from  
353 premises that the package agent shall provide and maintain.

354            [~~(40)~~] (43) "Permittee" means a person issued a permit by the commission to perform  
355 an act or exercise a privilege as specifically granted in the permit.

356            [~~(41)~~] (44) "Person" means an individual, partnership, firm, corporation, limited  
357 liability company, association, business trust, or other form of business enterprise, including a  
358 receiver or trustee, and the plural as well as the singular number, unless the intent to give a  
359 more limited meaning is disclosed by the context.

360            [~~(42)~~] (45) "Premises" means a building, enclosure, room, or equipment used in  
361 connection with the sale, storage, service, manufacture, distribution, or consumption of an  
362 alcoholic product, unless otherwise defined in this title or in the rules adopted by the  
363 commission.

364            [~~(43)~~] (46) "Prescription" means a writing in legal form, signed by a physician or  
365 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

366            [~~(44)~~] (47) (a) "Privately hosted event" or "private social function" means a specific  
367 social, business, or recreational event:

368            (i) for which an entire room, area, or hall is leased or rented in advance by an identified

369 group; and

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

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

374 [~~45~~] (48) (a) "Proof of age" means:

375 (i) an identification card;

376 (ii) an identification that:

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

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

380 (C) includes date of birth; and

381 (D) has a picture affixed;

382 (iii) a valid driver license certificate that:

383 (A) includes date of birth;

384 (B) has a picture affixed; and

385 (C) is issued:

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

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

388 (iv) a military identification card that:

389 (A) includes date of birth; and

390 (B) has a picture affixed; or

391 (v) a valid passport.

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

394 [~~46~~] (49) (a) "Public building" means a building or permanent structure owned or  
395 leased by the state, a county, or local government entity that is used for:

396 (i) public education;

397 (ii) transacting public business; or

398 (iii) regularly conducting government activities.

399 (b) "Public building" does not mean or refer to a building owned by the state or a

400 county or local government entity when the building is used by a person, in whole or in part,  
401 for a proprietary function.

402 [~~(47)~~] (50) "Representative" means an individual who is compensated by salary,  
403 commission, or other means for representing and selling an alcoholic beverage product of a  
404 manufacturer, supplier, or importer of liquor including:

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

408 [~~(48)~~] (51) "Residence" means a person's principal place of abode within Utah.

409 (52) "Resident," in relation to a resort, is as defined in Section 32A-4a-102.

410 (53) "Resort" is as defined in Section 32A-4a-102.

411 [~~(49)~~] (54) "Restaurant" means a business establishment:

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

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

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

417 [~~(50)~~] (55) "Retailer" means a person engaged in the sale or distribution of an alcoholic  
418 beverage to a consumer.

419 [~~(51)~~] (56) (a) "Sample" includes:

- 420 (i) a department sample; and
- 421 (ii) an industry representative sample.

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

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

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

429 (i) for testing, analysis, and sampling by a local industry representative on the premises  
430 of the department to educate the local industry representative of the quality and characteristics

431 of the product; and

432 (ii) including:

433 (A) wine;

434 (B) heavy beer; or

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

436 [~~(52)~~] (57) (a) "School" means a building used primarily for the general education of  
437 minors.

438 (b) "School" does not include:

439 (i) a nursery school;

440 (ii) an infant day care center; or

441 (iii) a trade or technical school.

442 [~~(53)~~] (58) "Sell," "sale," and "to sell" means a transaction, exchange, or barter  
443 whereby, for consideration, an alcoholic beverage is either directly or indirectly transferred,  
444 solicited, ordered, delivered for value, or by a means or under a pretext is promised or  
445 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or  
446 employee, unless otherwise defined in this title or the rules made by the commission.

447 [~~(54)~~] (59) "Seminude," "seminudity," or "state of seminudity" means a state of dress in  
448 which opaque clothing covers no more than:

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

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

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

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

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

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

456 [~~(55)~~] (60) "Sexually oriented entertainer" means a person who while in a state of  
457 seminudity appears at or performs:

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

459 (b) on the premises of:

460 (i) a class D private club license as defined in [~~Subsection~~] Section 32A-5-101[~~(3)~~]; or

461 (ii) a tavern;

- 462 (c) on behalf of or at the request of the licensee described in Subsection [~~(55)~~] (60)(b);
- 463 (d) on a contractual or voluntary basis; and
- 464 (e) whether or not the person is designated:
  - 465 (i) an employee of the licensee described in Subsection [~~(55)~~] (60)(b);
  - 466 (ii) an independent contractor of the licensee described in Subsection [~~(55)~~] (60)(b);
  - 467 (iii) an agent of the licensee described in Subsection [~~(55)~~] (60)(b); or
  - 468 (iv) otherwise of the licensee described in Subsection [~~(55)~~] (60)(b).

469 [~~(56)~~] (61) "Small brewer" means a brewer who manufactures less than 60,000 barrels  
470 of beer, heavy beer, and flavored malt beverages per year.

471 [~~(57)~~] (62) (a) "Spirituous liquor" means liquor that is distilled.

472 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27  
473 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

474 [~~(58)~~] (63) (a) "State label" means the official label designated by the commission  
475 affixed to a liquor container sold in the state.

476 (b) "State label" includes the department identification mark and inventory control  
477 number.

478 [~~(59)~~] (64) (a) "State store" means a facility for the sale of package liquor:

479 (i) located on premises owned or leased by the state; and

480 (ii) operated by a state employee.

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

482 (i) licensee;

483 (ii) permittee; or

484 (iii) package agency.

485 (65) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part  
486 3, Limited Restaurant Licenses:

487 (a) "Storage area" means an area on the premises of a restaurant where a licensee  
488 stores an alcoholic beverage or alcoholic product.

489 (b) "Store" means to place or maintain in a location an alcoholic beverage or alcoholic  
490 product from which a person draws to prepare an alcoholic beverage for service to a patron of  
491 the restaurant.

492 (66) "Sublicense" is as defined in Section 32A-4a-102.



493            [~~(60)~~] (67) "Supplier" means a person selling an alcoholic beverage to the department.

494            [~~(61)~~] (68) (a) "Tavern" means a business establishment that is:

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

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

498            (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the  
499 revenue of the sale of food, although food need not be sold in the establishment:

500            (i) a beer bar;

501            (ii) a parlor;

502            (iii) a lounge;

503            (iv) a cabaret; or

504            (v) a nightclub.

505            [~~(62)~~] (69) "Temporary domicile" means the principal place of abode within Utah of a  
506 person who does not have a present intention to continue residency within Utah permanently or  
507 indefinitely.

508            [~~(63)~~] (70) "Unsaleable liquor merchandise" means merchandise that:

509            (a) is unsaleable because the merchandise is:

510            (i) unlabeled;

511            (ii) leaky;

512            (iii) damaged;

513            (iv) difficult to open; or

514            (v) partly filled;

515            (b) is in a container:

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

517            (ii) in which the contents are:

518            (A) cloudy;

519            (B) spoiled; or

520            (C) chemically determined to be impure; or

521            (iii) that contains:

522            (A) sediment; or

523            (B) a foreign substance; or

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

525 [(64)] (71) "Visitor" means an individual that in accordance with Section 32A-5-107  
526 holds limited privileges in a private club by virtue of a visitor card.

527 [(65)] (72) "Warehouser" means a person, other than a licensed manufacturer, engaged  
528 in the importation for sale, storage, or distribution of liquor regardless of amount.

529 [(66)] (73) (a) "Wholesaler" means a person engaged in the importation for sale, or in  
530 the sale of beer in wholesale or jobbing quantities to one or more retailers.

531 (b) Notwithstanding Subsection [(66)] (73)(a), "wholesaler" does not include a small  
532 brewer selling beer manufactured by that brewer.

533 [(67)] (74) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the  
534 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not  
535 another ingredient is added.

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

538 Section 2. Section **32A-1-107** is amended to read:

539 **32A-1-107. Powers and duties of the commission.**

540 (1) The commission shall:

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

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

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

544 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates of~~  
545 ~~approval, and package agencies~~] a permit, license, certificate of approval, or package agency;

546 (ii) controlling liquor merchandise inventory including:

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

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

549 (C) purchasing policy;

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

551 and

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

553 (iii) determining the location of a state [~~stores, package agencies, and outlets~~] store,  
554 package agency, or outlet;

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

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

560 (i) a package [agencies] agency;

561 (ii) a restaurant [licenses] license;

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

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

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

565 (vi) a resort license, under which one or more sublicenses may be included;

566 [~~(vi)~~] (vii) a private club [licenses] license;

567 [~~(vii)~~] (viii) an on-premise beer retailer [licenses] license;

568 [~~(viii)~~] (ix) a temporary special event beer [permits] permit;

569 [~~(ix)~~] (x) a special use [permits] permit;

570 [~~(x)~~] (xi) a single event [permits] permit;

571 [~~(xi)~~] (xii) a manufacturing [licenses] license;

572 [~~(xii)~~] (xiii) a liquor warehousing [licenses] license;

573 [~~(xiii)~~] (xiv) a beer wholesaling [licenses] license; and

574 [~~(xiv)~~] (xv) an out-of-state brewer [certificates] certificate of approval;

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

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

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

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

581 (A) sound management principles are being followed; and

582 (B) policies established by the commission are being observed;

583 (i) (i) receive, consider, and act in a timely manner upon ~~[aH]~~ the reports,  
 584 recommendations, and matters submitted by the director to the commission; and

585 (ii) do ~~[aH]~~ the things necessary to support the department in properly performing the

586 department's duties and responsibilities;

587 (j) obtain temporarily and for special purposes the services of ~~[experts and persons]~~ an  
588 expert or person engaged in the practice of a profession or who possess any needed skills,  
589 talents, or abilities if:

590 (i) considered expedient; and

591 (ii) approved by the governor;

592 (k) prescribe the duties of a departmental ~~[officials]~~ official authorized to assist the  
593 commission in issuing ~~[permits, licenses, certificates of approval, and package agencies]~~ a  
594 permit, license, certificate of approval, or package agency under this title;

595 (l) prescribe, consistent with this title, the fees payable for:

596 (i) ~~[permits, licenses, certificates of approval, and package agencies]~~ a permit, license,  
597 certificate of approval, or package agency issued under this title; or

598 (ii) anything done or permitted to be done under this title;

599 (m) prescribe the conduct, management, and equipment of ~~[any]~~ premises upon which  
600 an alcoholic ~~[beverages]~~ beverage may be sold, consumed, served, or stored;

601 (n) make rules governing the credit terms of beer sales to retailers within the state;

602 (o) require that each of the following, where required in this title, display in a  
603 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol  
604 or drugs is a serious crime that is prosecuted aggressively in Utah.":

605 (i) a state store;

606 (ii) a permittee;

607 (iii) a licensee; and

608 (iv) a package agency; and

609 (p) subject to Subsection (4) and as provided in this title, impose fines against:

610 (i) a permittee, licensee, certificate holder, or package agent described in Subsection  
611 (1)(e); or

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

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

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

- 617 (b) create a package [~~agencies~~] agency;
- 618 (c) grant authority to operate a package [~~agencies~~] agency; and
- 619 (d) grant or deny [~~permits, licenses, and certificates~~] a permit, license, or certificate of
- 620 approval.

621 (3) The commission may appoint a qualified hearing [~~examiners~~] examiner to conduct

622 [~~any~~] a suspension or revocation [~~hearings~~] hearing required by law.

623 (4) (a) In [~~any~~] a case [~~where~~] when the commission is given the power to suspend

624 [~~any~~] a permit, license, certificate of approval, or package agency the commission may impose

625 a fine in addition to or in lieu of suspension.

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

- 627 (i) [~~any~~] a single Notice of Agency Action; or
- 628 (ii) a single action against a package agency.

629 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines

630 for each violation.

631 Section 3. Section **32A-1-115** is amended to read:

632 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**

633 **-- Distribution.**

634 (1) As used in this section:

635 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted

636 Account created in this section.

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

638 (i) a violation of:

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

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

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

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

643 (ii) an offense involving the:

644 (A) illegal sale of alcohol;

645 (B) illegal distribution of alcohol;

646 (C) illegal transportation of alcohol;

647 (D) illegal possession of alcohol; or

648 (E) illegal consumption of alcohol.  
649 (c) "Annual conviction time period" means the time period that:  
650 (i) begins on July 1 and ends on June 30; and  
651 (ii) immediately precedes the fiscal year for which an appropriation under this section  
652 is made.

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

655 (e) "Municipality" means:

- 656 (i) a city; or
- 657 (ii) a town.

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

660 (b) The account shall be funded from:

- 661 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;
- 662 (ii) any appropriations made to the account by the Legislature; and
- 663 (iii) interest described in Subsection (2)(c).

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

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

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

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

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

677 (A) intended to supplement the budget of the appropriate agencies of each municipality  
678 and county within the state to enable the municipalities and counties to more effectively fund

679 the programs and projects described in this Subsection (2)(d); and

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

682 (3) (a) The revenues deposited into the account shall be distributed to municipalities  
683 and counties:

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

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

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

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

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

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

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

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

700 (ii) The State Tax Commission:

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

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

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

710 municipality.

711 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax

712 Commission shall annually:

713 (a) for an annual conviction time period:

714 (i) multiply by two the total number of convictions in the state obtained during the  
715 annual conviction time period for violation of:

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

717 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or

718 Section 76-5-207; and

719 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions  
720 obtained during the annual conviction time period for all alcohol-related offenses other than the  
721 alcohol-related offenses described in Subsection (4)(a)(i);

722 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum  
723 obtained in Subsection (4)(a); and

724 (c) multiply the amount calculated under Subsection (4)(b), by the number of  
725 convictions obtained in each municipality and county during the annual conviction time period  
726 for alcohol-related offenses.

727 (5) For purposes of this section:

728 (a) the number of state stores, package agencies, and licensees located within the limits  
729 of each municipality and county:

730 (i) is the number determined by the department to be so located;

731 (ii) includes all:

732 (A) private clubs;

733 (B) restaurants;

734 (C) limited restaurants;

735 (D) on-premise banquet licenses;

736 (E) airport lounges;

737 (F) resort licenses;

738 [~~F~~] (G) package agencies; and

739 [~~G~~] (H) state stores; and

740 (iii) does not include on-premise beer retailer licensees;



741 (b) the number of state stores, package agencies, and licensees in a county consists only  
742 of that number located within unincorporated areas of the county;

743 (c) population figures shall be determined according to the most current population  
744 estimates prepared by the Utah Population Estimates Committee;

745 (d) a county's population figure for the 25% distribution to municipalities and counties  
746 under Subsection (3)(b)(i) shall be determined only with reference to the population in the  
747 unincorporated areas of the county;

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

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

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

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

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

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

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

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

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

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

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

771 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax

772 Commission shall annually distribute to each municipality and county the portion of the  
773 appropriation that the municipality or county is eligible to receive under this section, except for  
774 any municipality or county that the coordinating council notifies the State Tax Commission in  
775 accordance with Subsection (7) may not receive a distribution in that fiscal year.

776 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and  
777 counties in applying for distributions under this section.

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

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

783 (a) report to the coordinating council:

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

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

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

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

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

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

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

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

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

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

802 (b) The State Tax Commission shall:

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

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

807 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council  
808 shall award the balance of retained monies under Subsection (10)(b):

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

810 (ii) as grants to:

811 (A) a county;

812 (B) a municipality;

813 (C) the Department of Alcoholic Beverage Control;

814 (D) the Department of Human Services;

815 (E) the Department of Public Safety; or

816 (F) the Utah State Office of Education.

817 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating  
818 council shall notify the State Tax Commission of [any] grants awarded under this Subsection  
819 (11).

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

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

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

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

825 Section 4. Section **32A-1-119** is amended to read:

826 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

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

832 (i) the commission;

833 (ii) a hearing examiner appointed by the commission for the purposes provided in

834 Subsection 32A-1-107(3);

835 (iii) the director; and

836 (iv) the department.

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

840 (i) the commission;

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

842 (iii) the director; and

843 (iv) the department.

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

846 (i) video or audio recorded; and

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

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

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

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

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

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

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

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

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

865 presented at the hearing;

866 (II) conclusions of law; and

867 (III) recommendations.

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

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

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

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

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

877 (ii) a final adjudication of criminal liability against a person listed in Subsections  
878 32A-1-105[(17)](18)(a)(i) through (vii) based on an alleged violation of this title; or

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

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

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

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

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

888 (i) if required by law;

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

891 (iii) before imposing a fine against a person listed in Subsections  
892 32A-1-105[(17)](18)(a)(i) through (vii).

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

895 (c) The validity of a disciplinary proceeding is not affected by the failure of a person to

896 attend or remain in attendance.

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

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

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

904 (A) administer oaths or affirmations;

905 (B) take evidence;

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

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

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

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

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

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

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

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

922 (I) appear before the issuing party; and

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

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

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

926 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing

927 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

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

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

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

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

938 (6) (a) The commission shall:

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

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

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

943 (c) If the commission is satisfied that a person listed in Subsections  
944 32A-1-105[~~(17)~~](18)(a)(i) through (vii) violated this title or the commission's rules, in  
945 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

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

947 (ii) impose a fine against a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i)  
948 through (vii);

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

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

952 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections  
953 32A-1-107(1)(p) and (4).

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

956 (A) during the suspension; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

997 (I) directly commits the violation; or

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

1000 (9) Subject to Section 32A-1-119.5:

1001 (a) The department may initiate a disciplinary proceeding against a brewer holding a  
1002 certificate of approval under Section 32A-8-101 for an alleged violation of this title or the rules  
1003 of the commission.

1004 (b) If the commission makes a finding that the brewer holding a certificate of approval  
1005 violates this title or rules of the commission, the commission may take an action against the  
1006 brewer holding a certificate of approval that the commission could take against a licensee  
1007 including:

1008 (i) suspension or revocation of the certificate of approval; and

1009 (ii) imposition of a fine.

1010 (10) (a) An adjudicative proceeding under this title, including a disciplinary  
1011 proceeding, is a civil action, notwithstanding whether at issue in the adjudicative proceeding is  
1012 a violation of statute that can be prosecuted criminally.

1013 (b) Unless specifically adopted in this title, a procedure or principal that is applicable  
1014 to a criminal proceeding does not apply to an adjudicative proceeding permitted under this title  
1015 including:

1016 (i) Title 76, Chapter 1, General Provisions;

1017 (ii) Title 76, Chapter 2, Principles of Criminal Responsibility;

1018 (iii) Title 76, Chapter 3, Punishments; and

1019 (iv) Title 76, Chapter 4, Inchoate Offenses.

1020            (c) (i) The burden of proof in an adjudicative proceeding under this title is by a  
1021 preponderance of the evidence.

1022            (ii) If the subject of an adjudicative proceeding under this title asserts an affirmative  
1023 defense, the subject has the burden of proof to establish the affirmative defense by the  
1024 preponderance of the evidence.

1025            (d) In an adjudicative proceeding under this title, to find a violation of this title the  
1026 commission:

1027            (i) is required to determine whether the conduct that constitutes the violation occurred;  
1028 and

1029            (ii) is not required to make a finding of knowledge or intent unless knowledge or intent  
1030 is expressly made an element of the violation by statute.

1031            ~~[(+0)]~~ (11) (a) If a respondent requests a disciplinary proceeding hearing, the hearing  
1032 held by the commission or a hearing examiner appointed by the commission shall proceed  
1033 formally in accordance with Sections 63G-4-204 through 63G-4-209 in a case where:

1034            (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,  
1035 and welfare;

1036            (ii) the alleged violation involves:

1037            (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;

1038            (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and  
1039 Entertainment Act;

1040            (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf  
1041 of the respondent;

1042            (D) interfering or refusing to cooperate with:

1043            (I) an authorized official of the department or the state in the discharge of the official's  
1044 duties in relation to the enforcement of this title; or

1045            (II) a peace officer in the discharge of the peace officer's duties in relation to the  
1046 enforcement of this title;

1047            (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

1048            (F) unlawful importation of an alcoholic product; or

1049            (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection  
1050 32A-12-601(2), to a person other than the department or a military installation, except to the

1051 extent permitted by this title; or

1052 (iii) the department determines to seek in a disciplinary proceeding hearing:

1053 (A) an administrative fine exceeding \$3,000;

1054 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

1055 or

1056 (C) a revocation of a license, permit, or certificate of approval.

1057 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah

1058 Administrative Rulemaking Act, to provide a procedure to implement this Subsection [~~(10)~~]

1059 (11).

1060 Section 5. Section **32A-1-119.5** is amended to read:

1061 **32A-1-119.5. Timing of reporting violations.**

1062 (1) As used in this section:

1063 (a) "Department compliance officer" means an individual who is:

1064 (i) an auditor or inspector; and

1065 (ii) employed by the department.

1066 (b) "Nondepartment enforcement agency" means an agency that:

1067 (i) (A) is a state agency other than the department; or

1068 (B) is an agency of a county, city, or town; and

1069 (ii) has a responsibility, as provided in another provision of this title, to enforce one or

1070 more provisions of this title.

1071 (c) "Nondepartment enforcement officer" means an individual who is:

1072 (i) a peace officer, examiner, or investigator; and

1073 (ii) employed by an agency described in Subsection (1)(b).

1074 (2) A disciplinary proceeding may not be initiated or maintained by the commission or

1075 department on the basis, in whole or in part, of a violation of this title unless a person listed in

1076 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) against whom the violation is alleged is

1077 notified by the department of the violation in accordance with this section.

1078 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer

1079 may not report a violation of this title to the department more than eight business days after the

1080 day on which a nondepartment enforcement officer or agency completes an investigation that

1081 finds a violation of this title.

1082 (b) If the commission or department wants the right to initiate or maintain a  
1083 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a  
1084 report described in Subsection (3)(a), the department shall notify a person listed in Subsections  
1085 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this title:

1086 (i) by no later than eight business days of the day on which the department receives the  
1087 report described in Subsection (3)(a); and

1088 (ii) that the commission or department may initiate or maintain a disciplinary  
1089 proceeding on the basis, in whole or in part, of the violation.

1090 (4) If the commission or department wants the right to initiate or maintain a  
1091 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by  
1092 report of a department compliance officer, the department shall notify a person listed in  
1093 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this  
1094 title:

1095 (a) by no later than eight business days of the day on which the department compliance  
1096 officer completes an investigation that finds a violation of this title; and

1097 (b) that the commission or department may initiate or maintain a disciplinary  
1098 proceeding on the basis, in whole or in part, of the violation.

1099 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to  
1100 a person listed in Subsection 32A-1-105[~~(15)~~](18)(a)(vii).

1101 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after  
1102 the oral notification the department provides written notification.

1103 (b) The written notification described in Subsection (6)(a) may be sent outside the time  
1104 periods required by this section.

1105 (7) The department shall maintain a record of a notification required by Subsection (2),  
1106 (3)(b), or (4) that includes:

1107 (a) the name of the person notified; and

1108 (b) the date of the notification.

1109 Section 6. Section **32A-1-124** is enacted to read:

1110 **32A-1-124. Transition for dispensing requirements for restaurants.**

1111 (1) As used in this section:

1112 (a) "Affected restaurant" means a restaurant that as of May 12, 2009, dispensing an

- 1113 alcoholic beverage in a manner that as of November 1, 2011, would be in violation of:
- 1114 (i) for a restaurant liquor licensee, Subsections 32A-4-106(7)(e) and (8)(b); or
- 1115 (ii) for a limited restaurant liquor licensee, Subsections 32A-4-307(7)(e) and (8)(b).
- 1116 (b) "Category one" means an affected restaurant that as of May 12, 2009, has a counter
- 1117 or similar structure that:
- 1118 (i) is a bar as defined on May 11, 2009;
- 1119 (ii) has patron seating at the counter or structure;
- 1120 (iii) has a partition at one or more locations on the counter or structure that is along the
- 1121 width of the counter or structure; and
- 1122 (iv) has facilities for the dispensing or storage of an alcoholic beverage on the portion
- 1123 of the counter or structure that is separated by a partition described in Subsection (1)(b)(iii).
- 1124 (c) "Category two" means an affected restaurant that as of May 12, 2009, has a counter
- 1125 or similar structure that:
- 1126 (i) is a bar as defined on May 11, 2009;
- 1127 (ii) has patron seating at the counter or structure;
- 1128 (iii) has a partition at one or more locations on the counter or structure that is along the
- 1129 length of the counter or structure; and
- 1130 (iv) has facilities for the dispensing or storage of an alcoholic beverage:
- 1131 (A) on the portion of the counter or structure that is separated by a partition described
- 1132 in Subsection (1)(c)(iii); or
- 1133 (B) adjacent to the counter or structure in a manner visible to a patron sitting at the
- 1134 counter or structure.
- 1135 (d) "Category three" means an affected restaurant that as of May 12, 2009, has a
- 1136 counter or similar structure that:
- 1137 (i) is a bar as defined on May 11, 2009;
- 1138 (ii) has patron seating at the counter or structure; and
- 1139 (iii) has a partition or other structural mechanism that obscures facilities for the
- 1140 dispensing or storage of an alcoholic beverage that is not readily visible to a patron sitting at
- 1141 the counter or structure.
- 1142 (e) "Category four" means an affected restaurant that as of May 12, 2009, has a counter
- 1143 or similar structure that:

- 1144 (i) is a bar as defined on May 11, 2009; and
- 1145 (ii) has no patron seating at the counter or structure.
- 1146 (2) (a) If an affected restaurant chooses to renew its license effective November 1,
- 1147 2011, the affected restaurant has a credit for purchases from a state store or package agency in
- 1148 the following amounts:
- 1149 (i) for a category one affected restaurant, the credit is \$5,000;
- 1150 (ii) for a category two affected restaurant, the credit is \$10,000;
- 1151 (iii) for a category three affected restaurant, the credit is \$0; and
- 1152 (iv) for a category four affected restaurant, the credit is \$20,000.
- 1153 (b) A credit under this Subsection (2) begins November 1, 2011, and ends the day on
- 1154 which the affected restaurant has used all of the credit.
- 1155 (c) The department shall by contract provide for how a package agency accounts for a
- 1156 credit purchase made at the package agency by an affected restaurant.

1157 Section 7. Section **32A-4-101** is amended to read:

1158 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1159 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it

1160 shall first obtain a license from the commission as provided in this part.

1161 (2) The commission may issue restaurant liquor licenses for the purpose of establishing

1162 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and

1163 consumption of liquor on premises operated as public restaurants.

1164 (3) (a) Subject to the other provisions of this Subsection (3), the total number of

1165 restaurant liquor licenses may not at any time aggregate more than that number determined by

1166 dividing the population of the state by [~~5,200~~] 5,361.

1167 (b) For purposes of this Subsection (3), population shall be determined by:

- 1168 (i) the most recent United States decennial or special census; or
- 1169 (ii) another population determination made by the United States or state governments.

1170 (c) (i) The commission may issue seasonal restaurant liquor licenses established in

1171 areas the commission considers necessary.

1172 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1173 (iii) A restaurant liquor license issued for operation during a summer time period is

1174 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"

1175 restaurant liquor license shall:

1176 (A) begin on May 1; and

1177 (B) end on October 31.

1178 (iv) A restaurant liquor license issued for operation during a winter time period is

1179 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"

1180 restaurant liquor license shall:

1181 (A) begin on November 1; and

1182 (B) end on April 30.

1183 (v) In determining the number of restaurant liquor licenses that the commission may

1184 issue under this section:

1185 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and

1186 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1187 (d) (i) If the location, design, and construction of a hotel may require more than one

1188 restaurant liquor sales location within the hotel to serve the public convenience, the

1189 commission may authorize the sale of liquor at as many as three restaurant locations within the

1190 hotel under one license if:

1191 (A) the hotel has a minimum of 150 guest rooms; and

1192 (B) all locations under the license are:

1193 (I) within the same hotel facility; and

1194 (II) on premises that are managed or operated and owned or leased by the licensee.

1195 (ii) A facility other than a hotel shall have a separate restaurant liquor license for each

1196 restaurant where liquor is sold.

1197 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the

1198 premises of a restaurant liquor license may not be established:

1199 (i) within 600 feet of a community location, as measured by the method in Subsection

1200 (4)[~~(c)~~](f);

1201 (ii) within 200 feet of a community location, measured in a straight line from the

1202 nearest entrance of the proposed outlet to the nearest property boundary of the community

1203 location.

1204 (b) With respect to the establishment of a restaurant liquor license, the commission

1205 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

1206 (i) the local authority grants its written consent to the variance;  
1207 (ii) the commission finds that alternative locations for establishing a restaurant liquor  
1208 license in the community are limited;  
1209 (iii) a public hearing is held in the city, town, or county, and where practical in the  
1210 neighborhood concerned;  
1211 (iv) after giving full consideration to all of the attending circumstances and the policies  
1212 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1213 restaurant liquor license would not be detrimental to the public health, peace, safety, and  
1214 welfare of the community; and  
1215 (v) (A) the community location governing authority gives its written consent to the  
1216 variance; or  
1217 (B) when written consent is not given by the community location governing authority,  
1218 the commission finds that the applicant has established that:  
1219 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1220 within the geographic boundary of the local authority in which the restaurant is to be located;  
1221 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1222 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant  
1223 liquor license; and  
1224 (III) there is no reasonably viable alternative location within the geographic boundary  
1225 of the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1226 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).  
1227 (c) With respect to the establishment of a restaurant liquor license, the commission  
1228 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:  
1229 (i) the community location at issue is:  
1230 (A) a public library; or  
1231 (B) a public park;  
1232 (ii) the local authority grants its written consent to the variance;  
1233 (iii) the commission finds that alternative locations for establishing a restaurant liquor  
1234 license in the community are limited;  
1235 (iv) a public hearing is held in the city, town, or county, and where practical in the  
1236 neighborhood concerned;



1237 (v) after giving full consideration to all of the attending circumstances and the policies  
1238 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1239 restaurant liquor license would not be detrimental to the public health, peace, safety, and  
1240 welfare of the community; and

1241 (vi) (A) the community location governing authority gives its written consent to the  
1242 variance; or

1243 (B) when written consent is not given by the community location governing authority,  
1244 the commission finds that the applicant has established that:

1245 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1246 within the geographic boundary of the local authority in which the restaurant is to be located;

1247 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1248 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a restaurant  
1249 liquor license; and

1250 (III) there is no reasonably viable alternative location within the geographic boundary  
1251 of the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1252 license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1253 (d) With respect to the premises of a restaurant liquor license issued by the commission  
1254 that undergoes a change of ownership, the commission may waive or vary the proximity  
1255 requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor license to  
1256 the new owner of the premises if:

1257 (i) (A) the premises previously received a variance reducing the proximity requirement  
1258 of Subsection (4)(a)(i); or

1259 (B) the premises received a variance reducing the proximity requirement of Subsection  
1260 (4)(a)(ii) on or before May 4, 2008; or

1261 (ii) a variance from proximity requirements was otherwise allowed under this title.

1262 (e) With respect to the premises of a restaurant liquor license issued by the commission  
1263 that undergoes a change of ownership, the commission may waive or vary the proximity  
1264 requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor license to  
1265 the new owner of the premises if:

1266 (i) when a restaurant liquor license was issued to a previous owner, the premises met  
1267 the proximity requirements of Subsection (4)(a);

1268 (ii) the premises has had a restaurant liquor license at all times since the restaurant  
1269 liquor license described in Subsection (4)(e)(i) was issued without a variance; and

1270 (iii) the community location located within the proximity requirements of Subsection  
1271 (4)(a) after the day on which the restaurant liquor license described in Subsection (4)(e)(i) was  
1272 issued.

1273 [~~e~~] (f) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the  
1274 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
1275 community location.

1276 (5) (a) Nothing in this section prevents the commission from considering the proximity  
1277 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
1278 decision on a proposed location.

1279 (b) For purposes of this Subsection (5), "educational facility" includes:

1280 (i) a nursery school;

1281 (ii) an infant day care center; and

1282 (iii) a trade and technical school.

1283 Section 8. Section **32A-4-102** is amended to read:

1284 **32A-4-102. Application and renewal requirements.**

1285 (1) A person seeking a restaurant liquor license under this part shall file a written  
1286 application with the department, in a form prescribed by the department. It shall be  
1287 accompanied by:

1288 (a) a nonrefundable \$250 application fee;

1289 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1290 (c) written consent of the local authority;

1291 (d) a copy of the applicant's current business license;

1292 (e) evidence of proximity to any community location, with proximity requirements  
1293 being governed by Section 32A-4-101;

1294 (f) a bond as specified by Section 32A-4-105;

1295 (g) a floor plan of the restaurant, including consumption areas and the area where the  
1296 applicant proposes to keep, store, and sell liquor;

1297 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
1298 form satisfactory to the department;

1299 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
 1300 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

1301 (j) a signed consent form stating that the restaurant will permit any authorized  
 1302 representative of the commission, department, or any law enforcement officer unrestricted right  
 1303 to enter the restaurant;

1304 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
 1305 company, proper verification evidencing that the person or persons signing the restaurant  
 1306 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
 1307 company; and

1308 (l) any other information the commission or department may require.

1309 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1310 (b) A person desiring to renew the person's restaurant liquor license shall by no later  
 1311 than September 30 submit:

1312 (i) a completed renewal application to the department; and

1313 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1314 under \$5,000	\$750
1315 equals or exceeds \$5,000 but less than \$10,000	\$900
1316 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1317 equals or exceeds \$25,000	\$1,500

1318 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
 1319 the license effective on the date the existing license expires.

1320 (d) A renewal application shall be in a form as prescribed by the department.

1321 (e) To renew a restaurant liquor license effective November 1, 2011, a restaurant liquor  
 1322 licensee shall provide evidence of compliance with Subsections 32A-1-106(7)(e) and (8)(b).

1323 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may  
 1324 suspend or revoke a restaurant liquor license if the restaurant liquor licensee does not  
 1325 immediately notify the department of any change in:  
 1326

1327 (a) ownership of the restaurant;

1328 (b) for a corporate owner, the:

1329 (i) corporate officers or directors; or

1330 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
1331 corporation; or

1332 (c) for a limited liability company:

1333 (i) managers; or

1334 (ii) members owning at least 20% of the limited liability company.

1335 Section 9. Section **32A-4-106** is amended to read:

1336 **32A-4-106. Operational restrictions.**

1337 A person granted a restaurant liquor license and the employees and management  
1338 personnel of the restaurant shall comply with the following conditions and requirements.

1339 Failure to comply may result in a suspension or revocation of the restaurant liquor license or  
1340 other disciplinary action taken against individual employees or management personnel.

1341 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state  
1342 store or package agency.

1343 (b) Liquor purchased from a state store or package agency may be transported by the  
1344 restaurant liquor licensee from the place of purchase to the licensed premises.

1345 (c) Payment for liquor shall be made in accordance with rules established by the  
1346 commission.

1347 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in  
1348 a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered  
1349 dispensing system approved by the department in accordance with commission rules adopted  
1350 under this title, except that:

1351 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1352 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1353 restrictions:

1354 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1355 a primary spirituous liquor;

1356 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1357 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored  
1358 on the floor plan provided to the department; and

1359 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1360 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing

1361 system if used:

1362 (i) as a flavoring on a dessert; and

1363 (ii) in the preparation of a flaming food dish, drink, or dessert;

1364 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;

1365 and

1366 (d) a restaurant patron may have no more than one spirituous liquor drink at a time

1367 before the patron.

1368 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
1369 exceed five ounces per glass or individual portion.

1370 (ii) An individual portion of wine may be served to a patron in more than one glass as  
1371 long as the total amount of wine does not exceed five ounces.

1372 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1373 Subsection (7)~~(e)~~(f).

1374 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
1375 fixed by the commission to a table of four or more persons.

1376 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
1377 fixed by the commission to a table of less than four persons.

1378 (c) A wine service may be performed and a service charge assessed by a restaurant  
1379 liquor licensee as authorized by commission rule for wine purchased at the restaurant.

1380 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a  
1381 price fixed by the commission.

1382 (b) A flavored malt beverage may be served in an original container not exceeding one  
1383 liter at a price fixed by the commission.

1384 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by  
1385 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.

1386 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for  
1387 on-premise consumption:

1388 (A) in an open container; and

1389 (B) on draft.

1390 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1391 not exceed two liters, except that beer may not be sold to an individual patron in a size of

1392 container that exceeds one liter.

1393 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):

1394 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1395 commission; and

1396 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1397 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
1398 inconsistent with or less restrictive than the operational restrictions under this part.

1399 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1400 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1401 restaurant's:

1402 (i) state liquor license; and

1403 (ii) alcoholic beverage license issued by the local authority.

1404 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as  
1405 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee  
1406 first applies for and receives approval from the department for a change of location within the  
1407 restaurant.

1408 (7) (a) (i) A patron may only make an alcoholic beverage purchase in the restaurant  
1409 from and be served by a person employed, designated, and trained by the restaurant liquor  
1410 licensee to sell and serve an alcoholic beverage.

1411 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an  
1412 employee of the restaurant or carries bottled wine onto the premises of the restaurant pursuant  
1413 to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the  
1414 patron's table.

1415 (b) An alcoholic beverage shall be delivered by a server to the patron.

1416 (c) An alcoholic beverage may only be consumed at the patron's table or counter where  
1417 food is served.

1418 (d) ~~[An]~~ (i) On or before October 31, 2010, an alcoholic beverage may not be served  
1419 to or consumed by a patron at a bar.

1420 (ii) On and after November 1, 2011, a restaurant may not have a bar on its premises.

1421 (e) On and after November 1, 2011, a restaurant liquor licensee may dispense an  
1422 alcoholic beverage only:

- 1423 (i) from an area that is:
- 1424 (A) separated from an area for the consumption of food by a restaurant patron by:
- 1425 (I) a wall that:
- 1426 (Aa) is floor-to-ceiling; or
- 1427 (Bb) starts at the floor and is at least 10 feet high;
- 1428 (II) a different floor level; or
- 1429 (III) a similar substantial physical barrier; and
- 1430 (B) not visible to or accessible by a restaurant patron;
- 1431 (ii) if the restaurant uses an alcoholic beverage or alcoholic product that is stored in an
- 1432 area described in Subsection (7)(e)(i); and
- 1433 (iii) if any instrument or equipment used to dispense an alcoholic beverage is located in
- 1434 an area described in Subsection (7)(e)(i).
- 1435 ~~[(e)]~~ (f) A restaurant patron may have no more than two alcoholic beverages of any
- 1436 kind at a time before the patron, subject to the limitation in Subsection (2)(d).
- 1437 (8) ~~(a) [The]~~ A liquor storage area shall remain locked at all times other than those
- 1438 hours and days when liquor sales are authorized by law.
- 1439 (b) On and after November 1, 2011, a restaurant liquor licensee shall store an alcoholic
- 1440 beverage or alcoholic product in a storage area described in Subsection (7)(e)(i).
- 1441 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
- 1442 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.
- 1443 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 1444 Licenses, for on-premise beer licensees.
- 1445 (10) An alcoholic beverage may not be sold except in connection with an order for
- 1446 food prepared, sold, and served at the restaurant.
- 1447 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
- 1448 (a) minor;
- 1449 (b) person actually, apparently, or obviously intoxicated;
- 1450 (c) known habitual drunkard; or
- 1451 (d) known interdicted person.
- 1452 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 1453 (ii) Liquor may not be sold at a discount price on any date or at any time.

1454 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
1455 beverage to the restaurant liquor licensee.

1456 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1457 over consumption or intoxication.

1458 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1459 hours of a restaurant liquor licensee's business day such as a "happy hour."

1460 (e) More than one alcoholic beverage may not be sold or served for the price of a single  
1461 alcoholic beverage.

1462 (f) An indefinite or unlimited number of alcoholic beverages during a set period may  
1463 not be sold or served for a fixed price.

1464 (g) A restaurant liquor licensee may not engage in a public promotion involving or  
1465 offering free an alcoholic beverage to the general public.

1466 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

1467 (a) the restaurant liquor licensee; or

1468 (b) an employee or agent of the restaurant liquor licensee.

1469 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an  
1470 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
1471 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor  
1472 licensee for on-premise consumption.

1473 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an  
1474 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

1475 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise  
1476 consumption; or

1477 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the  
1478 restaurant liquor licensee's premises.

1479 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
1480 or other representative of the restaurant liquor licensee upon entering the restaurant.

1481 (d) A wine service may be performed and a service charge assessed by a restaurant  
1482 liquor licensee as authorized by commission rule for wine carried in by a patron.

1483 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an  
1484 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the



1485 restaurant premises an open container that:

1486 (i) is used primarily for drinking purposes; and

1487 (ii) contains an alcoholic beverage.

1488 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the  
1489 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought  
1490 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is  
1491 recorked or recapped before removal.

1492 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an  
1493 alcoholic beverage.

1494 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1495 employed to enter the sale at a cash register or other sales recording device.

1496 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1497 (a) consume an alcoholic beverage; or

1498 (b) be intoxicated.

1499 (18) A charge or fee made in connection with the sale, service, or consumption of liquor  
1500 may be stated in food or alcoholic beverage menus including:

1501 (a) a set-up charge;

1502 (b) a service charge; or

1503 (c) a chilling fee.

1504 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

1505 (a) the liquor license that is issued by the department;

1506 (b) a list of the types and brand names of liquor being served through its calibrated  
1507 metered dispensing system; and

1508 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1509 drugs is a serious crime that is prosecuted aggressively in Utah."

1510 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor  
1511 licensee:

1512 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
1513 Chapter 10, Part 11, Gambling;

1514 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
1515 Part 11, Gambling; or

1516 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
1517 the risking of something of value for a return or for an outcome when the return or outcome is  
1518 based upon an element of chance, excluding the playing of an amusement device that confers  
1519 only an immediate and unrecorded right of replay not exchangeable for value.

1520 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record showing  
1521 in detail:

1522 (i) quarterly expenditures made separately for:

1523 (A) malt or brewed beverages;

1524 (B) set-ups;

1525 (C) liquor;

1526 (D) food; and

1527 (E) all other items required by the department; and

1528 (ii) sales made separately for:

1529 (A) malt or brewed beverages;

1530 (B) set-ups;

1531 (C) food; and

1532 (D) all other items required by the department.

1533 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):

1534 (i) in a form approved by the department; and

1535 (ii) current for each three-month period.

1536 (c) An expenditure shall be supported by:

1537 (i) a delivery ticket;

1538 (ii) an invoice;

1539 (iii) a receipted bill;

1540 (iv) a canceled check;

1541 (v) a petty cash voucher; or

1542 (vi) other sustaining datum or memorandum.

1543 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant  
1544 liquor licensee shall maintain accounting and other records and documents as the department  
1545 may require.

1546 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly

1547 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or  
1548 other document of the restaurant that is required to be made, maintained, or preserved by this  
1549 title or the rules of the commission for the purpose of deceiving the commission or the  
1550 department, or an official or employee of the commission or department, is subject to:

- 1551 (i) the suspension or revocation of the restaurant's liquor license; and
- 1552 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1553 (22) (a) A restaurant liquor licensee may not close or cease operation for a period  
1554 longer than 240 hours, unless:

- 1555 (i) the restaurant liquor licensee notifies the department in writing at least seven days  
1556 before the day on which the restaurant liquor licensee closes or ceases operation; and

- 1557 (ii) the closure or cessation of operation is first approved by the department.

- 1558 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the  
1559 restaurant liquor licensee shall immediately notify the department by telephone.

- 1560 (c) (i) The department may authorize a closure or cessation of operation for a period  
1561 not to exceed 60 days.

- 1562 (ii) The department may extend the initial period an additional 30 days upon:

- 1563 (A) written request of the restaurant liquor licensee; and

- 1564 (B) a showing of good cause.

- 1565 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1566 commission approval.

- 1567 (d) A notice shall include:

- 1568 (i) the dates of closure or cessation of operation;

- 1569 (ii) the reason for the closure or cessation of operation; and

- 1570 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

- 1571 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department  
1572 authorization before closure or cessation of operation results in an automatic forfeiture of:

- 1573 (i) the license; and

- 1574 (ii) the unused portion of the license fee for the remainder of the license year effective  
1575 immediately.

- 1576 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the  
1577 approved date results in an automatic forfeiture of:

1578 (i) the license; and

1579 (ii) the unused portion of the license fee for the remainder of the license year.

1580 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant  
1581 business from the sale of food, which does not include mix for an alcoholic beverage or service  
1582 charges.

1583 (24) A restaurant liquor license may not be transferred from one location to another,  
1584 without prior written approval of the commission.

1585 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,  
1586 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license  
1587 to another person whether for monetary gain or not.

1588 (b) A restaurant liquor license has no monetary value for the purpose of any type of  
1589 disposition.

1590 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment  
1591 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic  
1592 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic  
1593 beverage ordered or consumed.

1594 (27) A person's willingness to serve an alcoholic beverage may not be made a  
1595 condition of employment as a server with a restaurant that has a restaurant liquor license.

1596 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may  
1597 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
1598 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1599 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
1600 58-37-2; or

1601 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
1602 Section 58-37a-3.

1603 Section 10. Section **32A-4-202** is amended to read:

1604 **32A-4-202. Application and renewal requirements.**

1605 (1) A person seeking an airport lounge liquor license under this part shall file a written  
1606 application with the department, in a form prescribed by the department, accompanied by:

1607 (a) a nonrefundable \$250 application fee;

1608 (b) an initial license fee of \$7,000, which is refundable if a license is not granted;

- 1609 (c) written consent of the local and airport authority;
- 1610 (d) a copy of the applicant's current business license;
- 1611 (e) a bond as specified by Section 32A-4-205;
- 1612 (f) a floor plan of the airport lounge, including consumption areas and the area where
- 1613 the applicant proposes to keep, store, and sell liquor;
- 1614 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
- 1615 public that alcoholic beverages are sold and consumed there;
- 1616 (h) evidence that the airport lounge is carrying public liability insurance in an amount
- 1617 and form satisfactory to the department;
- 1618 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
- 1619 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;
- 1620 (j) a signed consent form stating that the airport lounge will permit any authorized
- 1621 representative of the commission, department, or any law enforcement officer unrestricted right
- 1622 to enter the airport lounge;
- 1623 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 1624 company, proper verification evidencing that the person or persons signing the airport lounge
- 1625 application are authorized to so act on behalf of the partnership, corporation, or limited liability
- 1626 company; and
- 1627 (l) any other information the commission or department may require.
- 1628 (2) (a) All airport lounge liquor licenses expire on October 31 of each year.
- 1629 (b) A person desiring to renew that person's airport lounge liquor license shall submit a
- 1630 renewal fee of \$5,000 and a completed renewal application to the department no later than
- 1631 September 30.
- 1632 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 1633 the license, effective on the date the existing license expires.
- 1634 (d) Renewal applications shall be in a form as prescribed by the department.
- 1635 (3) To ensure compliance with Subsection 32A-4-206(21), the commission may revoke
- 1636 an airport lounge liquor license if the airport liquor licensee does not immediately notify the
- 1637 department of any change in:
- 1638 (a) ownership of the licensee;
- 1639 (b) for a corporate owner, the:

- 1640 (i) corporate officers or directors; or
- 1641 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 1642 corporation; or
- 1643 (c) for a limited liability company:
- 1644 (i) managers; or
- 1645 (ii) members owning at least 20% of the limited liability company.

1646 Section 11. Section **32A-4-302** is amended to read:

1647 **32A-4-302. Commission's power to grant licenses -- Limitations.**

1648 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,

1649 and beer on its premises, but not spirituous liquor or~~[, on or after October 1, 2008,]~~ a flavored

1650 malt beverage, shall obtain a limited restaurant license from the commission as provided in this

1651 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

1652 (2) (a) Subject to the other provisions of this section, the commission may issue limited

1653 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in

1654 numbers the commission considers proper for the storage, sale, and consumption of wine,

1655 heavy beer, and beer on premises operated as public restaurants.

1656 (b) The total number of limited restaurant licenses issued under this part may not at any

1657 time aggregate more than that number determined by dividing the population of the state by

1658 ~~[9,300]~~ 9,739.

1659 (c) For purposes of this Subsection (2), population shall be determined by:

- 1660 (i) the most recent United States decennial or special census; or
- 1661 (ii) another population determination made by the United States or state governments.

1662 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in

1663 areas the commission considers necessary.

1664 (ii) A seasonal limited restaurant license shall be for a period of six consecutive

1665 months.

1666 (b) (i) A limited restaurant license issued for operation during a summer time period is

1667 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"

1668 limited restaurant license shall:

- 1669 (A) begin on May 1; and
- 1670 (B) end on October 31.

1671 (ii) A limited restaurant license issued for operation during a winter time period is  
1672 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"  
1673 limited restaurant license shall:

1674 (A) begin on November 1; and

1675 (B) end on April 30.

1676 (iii) In determining the number of limited restaurant licenses that the commission may  
1677 issue under this section:

1678 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant  
1679 license; and

1680 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"  
1681 limited restaurant license.

1682 (c) If the location, design, and construction of a hotel may require more than one  
1683 limited restaurant sales location within the hotel to serve the public convenience, the  
1684 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited  
1685 restaurant locations within the hotel under one license if:

1686 (i) the hotel has a minimum of 150 guest rooms; and

1687 (ii) all locations under the license are:

1688 (A) within the same hotel facility; and

1689 (B) on premises that are:

1690 (I) managed or operated by the licensee; and

1691 (II) owned or leased by the licensee.

1692 (d) A facility other than a hotel shall have a separate limited restaurant license for each  
1693 restaurant where wine, heavy beer, and beer are sold.

1694 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the  
1695 premises of a limited restaurant license may not be established:

1696 (i) within 600 feet of a community location, as measured by the method in Subsection  
1697 (4)[~~(e)~~](f); or

1698 (ii) within 200 feet of a community location, measured in a straight line from the  
1699 nearest entrance of the proposed outlet to the nearest property boundary of the community  
1700 location.

1701 (b) With respect to the establishment of a limited restaurant license, the commission

1702 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

1703 (i) the local authority grants its written consent to the variance;

1704 (ii) the commission finds that alternative locations for establishing a limited restaurant  
1705 license in the community are limited;

1706 (iii) a public hearing is held in the city, town, or county, and where practical in the  
1707 neighborhood concerned;

1708 (iv) after giving full consideration to all of the attending circumstances and the policies  
1709 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1710 license would not be detrimental to the public health, peace, safety, and welfare of the  
1711 community; and

1712 (v) (A) the community location governing authority gives its written consent to the  
1713 variance; or

1714 (B) when written consent is not given by the community location governing authority,  
1715 the commission finds that the applicant has established that:

1716 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1717 within the geographic boundary of the local authority in which the limited restaurant licensee is  
1718 to be located;

1719 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1720 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited  
1721 restaurant license; and

1722 (III) there is no reasonably viable alternative location within the geographic boundary  
1723 of the local authority in which the limited restaurant licensee is to be located for establishing a  
1724 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1725 (c) With respect to the establishment of a limited restaurant license, the commission  
1726 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

1727 (i) the community location at issue is:

1728 (A) a public library; or

1729 (B) a public park;

1730 (ii) the local authority grants its written consent to the variance;

1731 (iii) the commission finds that alternative locations for establishing a limited restaurant  
1732 license in the community are limited;



1733 (iv) a public hearing is held in the city, town, or county, and where practical in the  
1734 neighborhood concerned;

1735 (v) after giving full consideration to all of the attending circumstances and the policies  
1736 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1737 limited restaurant license would not be detrimental to the public health, peace, safety, and  
1738 welfare of the community; and

1739 (vi) (A) the community location governing authority gives its written consent to the  
1740 variance; or

1741 (B) when written consent is not given by the community location governing authority,  
1742 the commission finds that the applicant has established that:

1743 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1744 within the geographic boundary of the local authority in which the limited restaurant licensee is  
1745 to be located;

1746 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1747 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a limited  
1748 restaurant license; and

1749 (III) there is no reasonably viable alternative location within the geographic boundary  
1750 of the local authority in which the limited restaurant licensee is to be located for establishing a  
1751 limited restaurant license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1752 (d) With respect to the premises of a limited restaurant license issued by the  
1753 commission that undergoes a change of ownership, the commission may waive or vary the  
1754 proximity requirements of Subsection (4)(a) in considering whether to grant a limited  
1755 restaurant license to the new owner of the premises if:

1756 (i) (A) the premises previously received a variance reducing the proximity requirement  
1757 of Subsection (4)(a)(i); or

1758 (B) the premises received a variance reducing the proximity requirement of Subsection  
1759 (4)(a)(ii) on or before May 4, 2008; or

1760 (ii) a variance from proximity requirements was otherwise allowed under this title.

1761 (e) With respect to the premises of a limited restaurant license issued by the  
1762 commission that undergoes a change of ownership, the commission may waive or vary the  
1763 proximity requirements of Subsection (4)(a) in considering whether to grant a limited

1764 restaurant license to the new owner of the premises if:

1765 (i) when a limited restaurant license was issued to a previous owner, the premises met  
1766 the proximity requirements of Subsection (4)(a);

1767 (ii) the premises has had a limited restaurant license at all times since the limited  
1768 restaurant license described in Subsection (4)(e)(i) was issued without a variance; and

1769 (iii) the community location located within the proximity requirements of Subsection  
1770 (4)(a) after the day on which the limited restaurant license described in Subsection (4)(e)(i) was  
1771 issued.

1772 [~~(e)~~] (f) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from  
1773 the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to  
1774 the property boundary of the community location.

1775 (5) (a) Nothing in this section prevents the commission from considering the proximity  
1776 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
1777 decision on a proposed location.

1778 (b) For purposes of this Subsection (5), "educational facility" includes:

1779 (i) a nursery school;

1780 (ii) an infant day care center; and

1781 (iii) a trade and technical school.

1782 Section 12. Section **32A-4-303** is amended to read:

1783 **32A-4-303. Application and renewal requirements.**

1784 (1) A person seeking a limited restaurant license under this part shall file a written  
1785 application with the department, in a form prescribed by the department. The application shall  
1786 be accompanied by:

1787 (a) a nonrefundable \$250 application fee;

1788 (b) an initial license fee of \$500, which is refundable if a license is not granted;

1789 (c) written consent of the local authority;

1790 (d) a copy of the applicant's current business license;

1791 (e) evidence of proximity to any community location, with proximity requirements  
1792 being governed by Section 32A-4-302;

1793 (f) a bond as specified by Section 32A-4-306;

1794 (g) a floor plan of the restaurant, including:

- 1795 (i) consumption areas; and
- 1796 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
- 1797 beer;
- 1798 (h) evidence that the restaurant is carrying public liability insurance in an amount and
- 1799 form satisfactory to the department;
- 1800 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
- 1801 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;
- 1802 (j) a signed consent form stating that the restaurant will permit any authorized
- 1803 representative of the commission, department, or any law enforcement officer unrestricted right
- 1804 to enter the restaurant;
- 1805 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 1806 company, proper verification evidencing that the person or persons signing the restaurant
- 1807 application are authorized to so act on behalf of the partnership, corporation, or limited liability
- 1808 company; and
- 1809 (l) any other information the commission or department may require.
- 1810 (2) (a) All limited restaurant licenses expire on October 31 of each year.
- 1811 (b) A person desiring to renew that person's limited restaurant license shall submit:
- 1812 (i) a renewal fee of \$300; and
- 1813 (ii) a renewal application to the department no later than September 30.
- 1814 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 1815 the license effective on the date the existing license expires.
- 1816 (d) A renewal application shall be in a form as prescribed by the department.
- 1817 (e) To renew a limited restaurant license effective November 1, 2011, a limited
- 1818 restaurant licensee shall provide evidence of compliance with Subsections 32A-4-307(7)(e) and
- 1819 (8)(b).
- 1820 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
- 1821 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
- 1822 immediately notify the department of any change in:
- 1823 (a) ownership of the restaurant;
- 1824 (b) for a corporate owner, the:
- 1825 (i) corporate officer or directors; or

1826 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
1827 corporation; or

1828 (c) for a limited liability company:

1829 (i) managers; or

1830 (ii) members owning at least 20% of the limited liability company.

1831 Section 13. Section **32A-4-307** is amended to read:

1832 **32A-4-307. Operational restrictions.**

1833 A person granted a limited restaurant license and the employees and management  
1834 personnel of the limited restaurant shall comply with the following conditions and  
1835 requirements. Failure to comply may result in a suspension or revocation of the license or  
1836 other disciplinary action taken against individual employees or management personnel.

1837 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee  
1838 except from a state store or package agency.

1839 (b) Wine and heavy beer purchased from a state store or package agency may be  
1840 transported by the limited restaurant licensee from the place of purchase to the licensed  
1841 premises.

1842 (c) Payment for wine and heavy beer shall be made in accordance with rules  
1843 established by the commission.

1844 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the  
1845 products listed in Subsection (2)(c) on the premises of the limited restaurant.

1846 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited  
1847 restaurant except for use:

1848 (i) as a flavoring on a dessert; and

1849 (ii) in the preparation of a flaming food dish, drink, or dessert.

1850 (c) This Subsection (2) applies to:

1851 (i) spirituous liquor; and

1852 (ii) on or after October 1, 2008, a flavored malt beverage.

1853 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
1854 exceed five ounces per glass or individual portion.

1855 (ii) An individual portion may be served to a patron in more than one glass as long as  
1856 the total amount of wine does not exceed five ounces.

1857 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1858 Subsection (7)~~(e)~~(f).

1859 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
1860 fixed by the commission to a table of four or more persons.

1861 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
1862 fixed by the commission to a table of less than four persons.

1863 (c) A wine service may be performed and a service charge assessed by the limited  
1864 restaurant licensee as authorized by commission rule for wine purchased at the limited  
1865 restaurant.

1866 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a  
1867 price fixed by the commission.

1868 (b) A service charge may be assessed by the limited restaurant licensee as authorized  
1869 by commission rule for heavy beer purchased at the limited restaurant.

1870 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for  
1871 on-premise consumption:

1872 (A) in an open container; and

1873 (B) on draft.

1874 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1875 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1876 container that exceeds one liter.

1877 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1878 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1879 commission; and

1880 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1881 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
1882 inconsistent with or less restrictive than the operational restrictions under this part.

1883 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1884 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited  
1885 restaurant's:

1886 (i) limited restaurant license; and

1887 (ii) alcoholic beverage license issued by the local authority.

1888 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than  
1889 as designated in the limited restaurant licensee's application, unless the limited restaurant  
1890 licensee first applies for and receives approval from the department for a change of location  
1891 within the limited restaurant.

1892 (7) (a) (i) A patron may only make an alcoholic beverage purchase in a limited  
1893 restaurant from and be served by a person employed, designated, and trained by the limited  
1894 restaurant licensee to sell and serve an alcoholic beverage.

1895 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an  
1896 employee of the limited restaurant licensee or carries bottled wine onto the premises of the  
1897 limited restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the  
1898 patron or others at the patron's table.

1899 (b) An alcoholic beverage shall be delivered by a server to the patron.

1900 (c) An alcoholic beverage may only be consumed at the patron's table or counter where  
1901 food is served.

1902 (d) ~~[Am]~~ (i) On or before October 31, 2010, an alcoholic beverage may not be served  
1903 to or consumed by a patron at a bar.

1904 (ii) On and after November 1, 2011, a restaurant may not have a bar on its premises.

1905 (e) On and after November 1, 2011, a limited restaurant licensee may dispense an  
1906 alcoholic beverage only:

1907 (i) from an area that is:

1908 (A) separated from an area for the consumption of food by a restaurant patron by:

1909 (I) a wall that:

1910 (Aa) is floor-to-ceiling; or

1911 (Bb) starts at the floor and is at least 10 feet high;

1912 (II) a different floor level; or

1913 (III) a similar substantial physical barrier; and

1914 (B) not visible to or accessible by a restaurant patron;

1915 (ii) if the restaurant uses an alcoholic beverage or alcoholic product that is stored in an  
1916 area described in Subsection (7)(e)(i); and

1917 (iii) if any instrument or equipment used to dispense an alcoholic beverage is located in  
1918 an area described in Subsection (7)(e)(i).

1919            [~~(e)~~] (f) A limited restaurant patron may have no more than two alcoholic beverages of  
1920 any kind at a time before the patron.

1921            (8) (a) [~~The~~] An alcoholic beverage storage area shall remain locked at all times other  
1922 than those hours and days when alcoholic beverage sales are authorized by law.

1923            (b) On and after November 1, 2011, a restaurant liquor licensee shall store an alcoholic  
1924 beverage or alcoholic product in a storage area described in Subsection (7)(e)(i).

1925            (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise  
1926 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.

1927            (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
1928 Licenses, for on-premise beer licensees.

1929            (10) An alcoholic beverage may not be sold except in connection with an order of food  
1930 prepared, sold, and served at the limited restaurant.

1931            (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

1932            (a) minor;

1933            (b) person actually, apparently, or obviously intoxicated;

1934            (c) known habitual drunkard; or

1935            (d) known interdicted person.

1936            (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

1937            (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

1938            (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
1939 beverage to the limited restaurant licensee.

1940            (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1941 over consumption or intoxication.

1942            (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1943 hours of the limited restaurant licensee's business day such as a "happy hour."

1944            (e) More than one alcoholic beverage may not be sold or served for the price of a single  
1945 alcoholic beverage.

1946            (f) An indefinite or unlimited number of alcoholic beverages during a set period may  
1947 not be sold or served for a fixed price.

1948            (g) A limited restaurant licensee may not engage in a public promotion involving or  
1949 offering free alcoholic beverages to the general public.

1950 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant  
1951 by:

1952 (a) the limited restaurant licensee; or

1953 (b) an employee or agent of the limited restaurant licensee.

1954 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an  
1955 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
1956 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited  
1957 restaurant licensee for on-premise consumption.

1958 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an  
1959 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

1960 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for  
1961 on-premise consumption; or

1962 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the  
1963 limited restaurant licensee's premises.

1964 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
1965 or other representative of the limited restaurant licensee upon entering the limited restaurant.

1966 (d) A wine service may be performed and a service charge assessed by the limited  
1967 restaurant licensee as authorized by commission rule for wine carried in by a patron.

1968 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an  
1969 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the  
1970 limited restaurant premises an open container that:

1971 (i) is used primarily for drinking purposes; and

1972 (ii) contains an alcoholic beverage.

1973 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed  
1974 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

1975 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an  
1976 alcoholic beverage.

1977 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1978 employed to enter the sale at a cash register or other sales recording device.

1979 (17) An employee of a limited restaurant licensee, while on duty, may not:

1980 (a) consume an alcoholic beverage; or



- 1981 (b) be intoxicated.
- 1982 (18) A charge or fee made in connection with the sale, service, or consumption of wine
- 1983 or heavy beer may be stated in food or alcoholic beverage menus including:
- 1984 (a) a service charge; or
- 1985 (b) a chilling fee.
- 1986 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:
- 1987 (a) the limited restaurant license that is issued by the department; and
- 1988 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1989 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1990 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 1991 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 1992 Chapter 10, Part 11, Gambling;
- 1993 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 1994 Part 11, Gambling; or
- 1995 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 1996 the risking of something of value for a return or for an outcome when the return or outcome is
- 1997 based upon an element of chance, excluding the playing of an amusement device that confers
- 1998 only an immediate and unrecorded right of replay not exchangeable for value.
- 1999 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
- 2000 showing in detail:
- 2001 (i) quarterly expenditures made separately for:
- 2002 (A) wine;
- 2003 (B) heavy beer;
- 2004 (C) beer;
- 2005 (D) food; and
- 2006 (E) all other items required by the department; and
- 2007 (ii) sales made separately for:
- 2008 (A) wine;
- 2009 (B) heavy beer;
- 2010 (C) beer;
- 2011 (D) food; and

- 2012 (E) all other items required by the department.
- 2013 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):
- 2014 (i) in a form approved by the department; and
- 2015 (ii) current for each three-month period.
- 2016 (c) An expenditure shall be supported by:
- 2017 (i) a delivery ticket;
- 2018 (ii) an invoice;
- 2019 (iii) a receipted bill;
- 2020 (iv) a canceled check;
- 2021 (v) a petty cash voucher; or
- 2022 (vi) other sustaining datum or memorandum.
- 2023 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2024 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2025 the department may require.
- 2026 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2027 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 2028 other document of the limited restaurant that is required to be made, maintained, or preserved
- 2029 by this title or the rules of the commission for the purpose of deceiving the commission, the
- 2030 department, or an official or employee of the commission or department, is subject to:
- 2031 (i) the suspension or revocation of the limited restaurant's license; and
- 2032 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2033 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 2034 longer than 240 hours, unless:
- 2035 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 2036 before the day on which the limited restaurant licensee closes or ceases operation; and
- 2037 (ii) the closure or cessation of operation is first approved by the department.
- 2038 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
- 2039 restaurant licensee shall immediately notify the department by telephone.
- 2040 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
- 2041 cessation of operation for a period not to exceed 60 days.
- 2042 (ii) The department may extend the initial period an additional 30 days upon:

- 2043 (A) written request of the limited restaurant licensee; and
- 2044 (B) a showing of good cause.
- 2045 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 2046 commission approval.
- 2047 (d) A notice required by Subsection (22)(a) shall include:
- 2048 (i) the dates of closure or cessation of operation;
- 2049 (ii) the reason for the closure or cessation of operation; and
- 2050 (iii) the date on which the limited restaurant licensee will reopen or resume operation.
- 2051 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
- 2052 authorization before closure or cessation of operation results in an automatic forfeiture of:
- 2053 (i) the limited restaurant license; and
- 2054 (ii) the unused portion of the license fee for the remainder of the license year effective
- 2055 immediately.
- 2056 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
- 2057 approved date results in an automatic forfeiture of:
- 2058 (i) the limited restaurant license; and
- 2059 (ii) the unused portion of the license fee for the remainder of the license year.
- 2060 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant
- 2061 business from the sale of food, which does not include service charges.
- 2062 (24) A limited restaurant license may not be transferred from one location to another,
- 2063 without prior written approval of the commission.
- 2064 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
- 2065 give, or attempt in any way to dispose of the limited restaurant license to another person
- 2066 whether for monetary gain or not.
- 2067 (b) A limited restaurant license has no monetary value for the purpose of any type of
- 2068 disposition.
- 2069 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
- 2070 establishment shall keep a written beverage tab for each table or group that orders or consumes
- 2071 an alcoholic beverage on the premises.
- 2072 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
- 2073 alcoholic beverage ordered or consumed.

2074 (27) A limited restaurant licensee may not make a person's willingness to serve an  
2075 alcoholic beverage a condition of employment as a server with the limited restaurant.

2076 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may  
2077 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
2078 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2079 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2080 58-37-2; or

2081 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2082 Section 58-37a-3.

2083 Section 14. Section **32A-4-401** is amended to read:

2084 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2085 (1) (a) For purposes of this part:

2086 (i) "Banquet" means an event:

2087 (A) for which there is a contract:

2088 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2089 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide an  
2090 alcoholic [~~beverages~~] beverage at the event;

2091 (B) held at one or more designated locations approved by the commission in or on the  
2092 premises of a:

2093 (I) hotel;

2094 (II) resort facility;

2095 (III) sports center; or

2096 (IV) convention center; and

2097 (C) at which food and alcoholic beverages may be sold and served.

2098 (ii) "Convention center" is [~~as~~] a facility that:

2099 (A) is in total at least 30,000 square feet; and

2100 (B) is otherwise defined as a "convention center" by the commission by rule.

2101 (iii) "Hotel" is as defined by the commission by rule.

2102 (iv) "Resort facility" is as defined by the commission by rule.

2103 (v) "Room service" means service of an alcoholic [~~beverages~~] beverage to a guest room

2104 of a:

- 2105 (A) hotel; or
- 2106 (B) resort facility.
- 2107 (vi) "Sports center" is as defined by the commission by rule.
- 2108 (b) The commission may issue an on-premise banquet license to any of the following
- 2109 persons for the purpose of allowing the storage, sale, service, and consumption of an alcoholic
- 2110 ~~[beverages]~~ beverage in connection with that person's banquet and room service activities:
- 2111 (i) a hotel;
- 2112 (ii) a resort facility;
- 2113 (iii) a sports center; or
- 2114 (iv) a convention center.
- 2115 (c) This chapter ~~[is not intended to]~~ does not prohibit an alcoholic ~~[beverages]~~
- 2116 beverage on the premises of a person listed in Subsection (1) to the extent otherwise permitted
- 2117 by this title.
- 2118 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 2119 at any time aggregate more than that number determined by dividing the population of the state
- 2120 by ~~[30,000]~~ 30,929.
- 2121 (b) For purposes of this Subsection (2), the population of the state shall be determined
- 2122 by:
- 2123 (i) the most recent United States decennial or special census; or
- 2124 (ii) another population determination made by the United States or state governments.
- 2125 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
- 2126 licensee:
- 2127 (a) the host of a contracted banquet may request an on-premise banquet licensee to
- 2128 provide an alcoholic ~~[beverages]~~ beverage served at a banquet; and
- 2129 (b) an on-premise banquet licensee may provide ~~[the]~~ an alcoholic ~~[beverages]~~
- 2130 beverage served at a banquet.
- 2131 (4) At a banquet, an on-premise banquet licensee may provide:
- 2132 (a) a hosted bar; or
- 2133 (b) a cash bar.
- 2134 (5) Nothing in this section ~~[shall prohibit]~~ prohibits a qualified on-premise banquet
- 2135 license applicant from applying for a package agency.

2136 (6) (a) Except as provided in Subsection (6)(b), (c), or (d), the premises of an  
2137 on-premise banquet license may not be established:

2138 (i) within 600 feet of a community location, as measured by the method in Subsection  
2139 (6)(e); or

2140 (ii) within 200 feet of a community location, measured in a straight line from the  
2141 nearest entrance of the proposed outlet to the nearest property boundary of the community  
2142 location.

2143 (b) With respect to the establishment of an on-premise banquet license, the  
2144 commission may authorize a variance to reduce the proximity requirement of Subsection  
2145 (6)(a)(i) if:

2146 (i) the local authority grants its written consent to the variance;

2147 (ii) the commission finds that alternative locations for establishing an on-premise  
2148 banquet license in the community are limited;

2149 (iii) the variance is authorized after a public hearing is held in the city, town, or county,  
2150 and where practical in the neighborhood concerned;

2151 (iv) after giving full consideration to all of the attending circumstances and the policies  
2152 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2153 license would not be detrimental to the public health, peace, safety, and welfare of the  
2154 community; and

2155 (v) (A) the community location governing authority gives its written consent to the  
2156 variance; or

2157 (B) when written consent is not given by the community location governing authority,  
2158 the commission finds that the applicant has established that:

2159 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2160 within the geographic boundary of the local authority in which the on-premise banquet license  
2161 premises is to be located;

2162 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2163 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise  
2164 banquet license; and

2165 (III) there is no reasonably viable alternative location within the geographic boundary  
2166 of the local authority in which the on-premise banquet license premises is to be located for

2167 establishing an on-premise banquet license to satisfy the unmet demand described in  
2168 Subsection (6)(b)(v)(B)(I).

2169 (c) With respect to the establishment of an on-premise banquet license, the commission  
2170 may authorize a variance that reduces the proximity requirement of Subsection (6)(a)(ii) if:

2171 (i) the community location at issue is:

2172 (A) a public library; or

2173 (B) a public park;

2174 (ii) the local authority grants its written consent to the variance;

2175 (iii) the commission finds that alternative locations for establishing an on-premise  
2176 banquet license in the community are limited;

2177 (iv) a public hearing is held in the city, town, or county, and where practical in the  
2178 neighborhood concerned;

2179 (v) after giving full consideration to all of the attending circumstances and the policies  
2180 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2181 on-premise banquet license would not be detrimental to the public health, peace, safety, and  
2182 welfare of the community; and

2183 (vi) (A) the community location governing authority gives its written consent to the  
2184 variance; or

2185 (B) when written consent is not given by the community location governing authority,  
2186 the commission finds that the applicant has established that:

2187 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2188 within the geographic boundary of the local authority in which the on-premise banquet license  
2189 premises is to be located;

2190 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2191 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise  
2192 banquet license; and

2193 (III) there is no reasonably viable alternative location within the geographic boundary  
2194 of the local authority in which the on-premise banquet license premises is to be located for  
2195 establishing an on-premise banquet license to satisfy the unmet demand described in  
2196 Subsection (6)(c)(vi)(B)(I).

2197 (d) With respect to the premises of any on-premise banquet license issued by the

2198 commission that undergoes a change of ownership, the commission may waive or vary the  
2199 proximity requirements of Subsection (6)(a) in considering whether to grant an on-premise  
2200 banquet license to the new owner of the premises if:

2201 (i) (A) the premises previously received a variance reducing the proximity requirement  
2202 of Subsection (6)(a)(i); or

2203 (B) the premises received a variance reducing the proximity requirement of Subsection  
2204 (6)(a)(ii) on or before May 4, 2008; or

2205 (ii) a variance from proximity requirements was otherwise allowed under this title.

2206 (e) The 600 foot limitation described in Subsection (6)(a)(i) is measured from the  
2207 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
2208 property boundary of the community location.

2209 (7) (a) Nothing in this section prevents the commission from considering the proximity  
2210 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
2211 decision on a proposed location.

2212 (b) For purposes of this Subsection (7), "educational facility" includes:

2213 (i) a nursery school;

2214 (ii) an infant day care center; and

2215 (iii) a trade and technical school.

2216 Section 15. Section **32A-4-402** is amended to read:

2217 **32A-4-402. Application and renewal requirements.**

2218 (1) (a) A person seeking an on-premise banquet license under this part shall file a  
2219 written application with the department, in a form prescribed by the department. The  
2220 application shall be accompanied by:

2221 (i) a nonrefundable \$250 application fee;

2222 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2223 (iii) written consent of the local authority;

2224 (iv) a copy of the applicant's current business license;

2225 (v) evidence of proximity to any community location, with proximity requirements  
2226 being governed by Section 32A-4-401;

2227 (vi) a bond as specified by Section 32A-4-405;

2228 (vii) a description or floor plan and boundary map of the premises, where appropriate,



2229 of the on-premise banquet license applicant's location, designating:

2230 (A) the location at which the on-premise banquet license applicant proposes that  
2231 alcoholic beverages be stored; and

2232 (B) the designated locations on the premises of the applicant from which the  
2233 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and  
2234 consumed;

2235 (viii) evidence that the on-premise banquet license applicant is carrying public liability  
2236 insurance in an amount and form satisfactory to the department;

2237 (ix) evidence that the on-premise banquet license applicant is carrying dramshop  
2238 insurance coverage of at least [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~]  
2239 \$2,000,000 in the aggregate;

2240 (x) a signed consent form stating that the on-premise banquet license applicant will  
2241 permit any authorized representative of the commission, department, or any law enforcement  
2242 officer unrestricted right to enter the on-premise banquet premises;

2243 (xi) in the case of an applicant that is a partnership, corporation, or limited liability  
2244 company, proper verification evidencing that the person or persons signing the on-premise  
2245 banquet license application are authorized to so act on behalf of the partnership, corporation, or  
2246 limited liability company; and

2247 (xii) any other information the commission or department may require.

2248 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),  
2249 and (vi) if the applicant is:

2250 (i) a state agency; or

2251 (ii) a political subdivision of the state including:

2252 (A) a county; or

2253 (B) a municipality.

2254 (2) Additional locations in or on the premises of an on-premise banquet license  
2255 applicant's business from which the on-premise banquet license applicant may propose that  
2256 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's  
2257 original application may be approved by the department upon proper application, in accordance  
2258 with guidelines approved by the commission.

2259 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2260 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that  
2261 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed  
2262 renewal application to the department no later than September 30.

2263 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2264 (A) a state agency; or

2265 (B) a political subdivision of the state including:

2266 (I) a county; or

2267 (II) a municipality.

2268 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2269 the license effective on the date the existing license expires.

2270 (d) A renewal application shall be in a form as prescribed by the department.

2271 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may  
2272 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to  
2273 immediately notify the department of any change in:

2274 (a) ownership of the licensee;

2275 (b) for a corporate owner, the:

2276 (i) corporate officers or directors; or

2277 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2278 corporation; or

2279 (c) for a limited liability company:

2280 (i) managers; or

2281 (ii) members owning at least 20% of the limited liability company.

2282 Section 16. Section **32A-4a-101** is enacted to read:

2283 **CHAPTER 4a. RESORT LICENSE ACT**

2284 **Part 1. General Provisions**

2285 **32A-4a-101. Title.**

2286 This chapter is known as the "Resort License Act."

2287 Section 17. Section **32A-4a-102** is enacted to read:

2288 **32A-4a-102. Definitions.**

2289 As used in this chapter:

2290 (1) "Dwelling" means a portion of a building:

- 2291 (a) owned by one or more individuals, except that a significant portion of the building  
2292 is to be owned by a resort licensee;
- 2293 (b) that is used or designated for use as a residence by one or more persons; and  
2294 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30  
2295 consecutive days by a person who uses it for a residence.
- 2296 (2) "Engaged in the management of the resort" may be defined by the commission by  
2297 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2298 (3) "Invitee" means an individual who in accordance with Subsection 32A-4a-305(3):  
2299 (a) is authorized to use a resort amenity by a host who is:  
2300 (i) a resident; or  
2301 (ii) a public customer;  
2302 (b) has only those privileges derived from the invitee's host for the duration of the  
2303 invitee's visit to the resort amenity; and  
2304 (c) is allowed to use a resort amenity by a resort license under a resort amenity  
2305 sublicense.
- 2306 (4) "Provisions applicable to a sublicense" means:  
2307 (a) for a restaurant sublicense, Chapter 4, Part 1, Restaurant Liquor Licenses;  
2308 (b) for a limited restaurant sublicense, Chapter 4, Part 3, Limited Restaurant Licenses;  
2309 (c) for an on-premise banquet sublicense, Chapter 4, Part 4, On-Premises Banquet  
2310 License;  
2311 (d) for a resort amenity sublicense, Chapter 4a, Part 3, Resort Amenity Sublicense;  
2312 (e) for a private club sublicense, Chapter 5, Private Club Liquor Licenses; and  
2313 (f) for an on-premise beer retailer sublicense, Chapter 10, Beer Retailer Licenses.
- 2314 (5) "Public customer" means an individual who holds a customer card in accordance  
2315 with Subsection 32A-4a-305(4).
- 2316 (6) "Resident" means an individual who:  
2317 (a) owns a dwelling located within a resort license premises; or  
2318 (b) rents lodging accommodations for 30 consecutive days or less from:  
2319 (i) an owner of a dwelling described in Subsection (6)(a); or  
2320 (ii) the resort licensee.
- 2321 (7) "Resort" means a location;

2322 (a) on which is located one or more buildings that are primarily operated for the  
2323 purpose of providing dwellings or lodging accommodations; and  
2324 (b) that is affiliated with a ski area that physically touches the resort license premises.  
2325 (8) "Resort amenity" means:  
2326 (a) a reception area in which only a resident or invitee of a resident is allowed to enter;  
2327 or  
2328 (b) a spa, as defined by rule by the commission made in accordance with Title 63G,  
2329 Chapter 3, Utah Administrative Rulemaking Act.  
2330 (9) (a) Except as provided in Subsection (9)(b), "resort license premises" means the  
2331 boundary of the land owned or controlled by a resort license on which is located the sublicense  
2332 premises of all sublicenses issued under the resort license.  
2333 (b) "Resort license premises" does not include a building located within the resort  
2334 license premises:  
2335 (i) that is owned by a person other than a resort licensee;  
2336 (ii) that is not leased or otherwise operated by the resort licensee; and  
2337 (iii) in which no person engages in an activity requiring a license or permit under this  
2338 title.  
2339 (10) "Significant portion of a building" shall be defined by the commission by rule  
2340 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
2341 (11) "Sublicense" means:  
2342 (a) a restaurant sublicense;  
2343 (b) a limited restaurant sublicense;  
2344 (c) an on-premise banquet sublicense;  
2345 (d) a resort amenity sublicense;  
2346 (e) a private club sublicense; or  
2347 (f) an on-premise beer retailer sublicense.  
2348 (12) "Sublicense premises" means a building, enclosure, room, or equipment used  
2349 pursuant to a sublicense in connection with the sale, storage, service, furnishing, or  
2350 consumption of an alcoholic product, unless otherwise defined in this title or in the rules  
2351 adopted by the commission in accordance with Title 63G, Chapter 3, Utah Administrative  
2352 Rulemaking Act.

2353 Section 18. Section **32A-4a-201** is enacted to read:

2354 **Part 2. Licensing**

2355 **32A-4a-201. Commission's power to license a resort -- Limitations.**

2356 (1) (a) The commission may issue to a person a resort license for the purpose of  
2357 allowing the storage, sale, service, and consumption of an alcoholic beverage in connection  
2358 with a resort designated in the resort license.

2359 (b) A resort license shall:

2360 (i) consist of:

2361 (A) a general resort license; and

2362 (B) one or more sublicenses; and

2363 (ii) designate the boundary of the resort license premises.

2364 (c) This chapter does not prohibit an alcoholic beverage on the resort license premises  
2365 to the extent otherwise permitted by this title.

2366 (d) The commission may not issue a sublicense that is separate from a resort license.

2367 (2) (a) Subject to this section, the total number of resort licenses may not at any time  
2368 aggregate more than that number determined by dividing the population of the state by  
2369 140,725.

2370 (b) For purposes of this Subsection (2), the population of the state is determined by:

2371 (i) the most recent United States decennial or special census; or

2372 (ii) another population determination made by the United States or state governments.

2373 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), a resort license premises  
2374 may not be established:

2375 (i) within 600 feet of a community location, as measured by the method in Subsection  
2376 (3)(e); or

2377 (ii) within 200 feet of a community location, measured in a straight line from the  
2378 nearest entrance of the proposed outlet to the nearest property boundary of the community  
2379 location.

2380 (b) With respect to the establishment of a resort license, the commission may authorize  
2381 a variance to reduce the proximity requirement of Subsection (3)(a)(i) if:

2382 (i) the local authority grants its written consent to the variance;

2383 (ii) the commission finds that alternative locations for establishing a resort license in

2384 the community are limited;

2385 (iii) the variance is authorized after a public hearing is held in the city, town, or county,  
2386 and where practical in the neighborhood concerned;

2387 (iv) after giving full consideration to all of the attending circumstances and the policies  
2388 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2389 resort license would not be detrimental to the public health, peace, safety, and welfare of the  
2390 community; and

2391 (v) (A) the community location governing authority gives its written consent to the  
2392 variance; or

2393 (B) when written consent is not given by the community location governing authority,  
2394 the commission finds that the applicant has established that:

2395 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2396 within the geographic boundary of the local authority in which the resort license premises is to  
2397 be located;

2398 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2399 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a resort license;  
2400 and

2401 (III) there is no reasonably viable alternative location within the geographic boundary  
2402 of the local authority in which the resort license premises is to be located for establishing a  
2403 resort license to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).

2404 (c) With respect to the establishment of a resort license, the commission may authorize  
2405 a variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:

2406 (i) the community location at issue is:

2407 (A) a public library; or

2408 (B) a public park;

2409 (ii) the local authority grants its written consent to the variance;

2410 (iii) the commission finds that alternative locations for establishing a resort license in  
2411 the community are limited;

2412 (iv) a public hearing is held in the city, town, or county, and where practical in the  
2413 neighborhood concerned;

2414 (v) after giving full consideration to all of the attending circumstances and the policies

2415 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2416 resort license would not be detrimental to the public health, peace, safety, and welfare of the  
2417 community; and

2418 (vi) (A) the community location governing authority gives its written consent to the  
2419 variance; or

2420 (B) when written consent is not given by the community location governing authority,  
2421 the commission finds that the applicant has established that:

2422 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2423 within the geographic boundary of the local authority in which the resort license premises is to  
2424 be located;

2425 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2426 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of a resort license;  
2427 and

2428 (III) there is no reasonably viable alternative location within the geographic boundary  
2429 of the local authority in which the resort license premises is to be located for establishing a  
2430 resort license to satisfy the unmet demand described in Subsection (3)(c)(vi)(B)(I).

2431 (d) With respect to resort license premises of a resort license issued by the commission  
2432 that undergoes a change of ownership, the commission may waive or vary the proximity  
2433 requirements of Subsection (3)(a) in considering whether to issue a resort license to the new  
2434 owner of the resort license premises if the resort license premises previously received a  
2435 variance reducing the proximity requirement of Subsection (3)(a)(i).

2436 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
2437 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
2438 property boundary of the community location.

2439 (4) (a) Nothing in this section prevents the commission from considering the proximity  
2440 of an educational, religious, or recreational facility, or any other relevant factor in reaching a  
2441 decision on a proposed location.

2442 (b) For purposes of this Subsection (4), "educational facility" includes:

2443 (i) a nursery school;

2444 (ii) an infant day care center; and

2445 (iii) a trade and technical school.

2446 Section 19. Section **32A-4a-202** is enacted to read:

2447 **32A-4a-202. Application and renewal requirements.**

2448 (1) A person seeking a resort license under this chapter shall file a written application  
2449 with the department, in a form prescribed by the department. The application shall be  
2450 accompanied by:

2451 (a) a nonrefundable \$250 application fee;

2452 (b) an initial license, which is refundable if a resort license is not issued, calculated as  
2453 follows:

2454 (i) \$10,000 if four or fewer sublicenses are being applied for under the resort license;

2455 or

2456 (ii) if more than four sublicenses are being applied for under the resort license, the sum

2457 of:

2458 (A) \$10,000; and

2459 (B) \$2,000 for each sublicense for which the applicant is applying;

2460 (c) written consent of the local authority;

2461 (d) a copy of:

2462 (i) the applicant's current business license; and

2463 (ii) the current business license for each sublicense, if the business license is separate

2464 from the applicant's business license;

2465 (e) evidence:

2466 (i) of proximity of the resort license premises to any community location, with

2467 proximity requirements being governed by Section 32A-4a-201; and

2468 (ii) that each sublicense premises is entirely within the boundaries of the resort license  
2469 premises;

2470 (f) a bond as specified by Section 32A-4a-205;

2471 (g) a description and boundary map of the resort license premises;

2472 (h) a description, floor plan, and boundary map of each sublicense premises

2473 designating:

2474 (i) a location at which the resort license applicant proposes that an alcoholic beverage  
2475 be stored; and

2476 (ii) a designated location on the sublicense premises from which the resort license



- 2477 applicant proposes that an alcoholic beverage be sold or served and consumed;
- 2478 (i) evidence that the resort license applicant carries public liability insurance in an  
2479 amount and form satisfactory to the department;
- 2480 (j) evidence that the resort license applicant carries dramshop insurance coverage equal  
2481 to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both  
2482 the general resort license and each sublicense;
- 2483 (k) a signed consent form stating that the resort license applicant will permit any  
2484 authorized representative of the commission, department, or any law enforcement officer  
2485 unrestricted right to enter the resort license premises and each sublicense premises;
- 2486 (l) if an applicant is a partnership, corporation, or limited liability company, proper  
2487 verification evidencing that the one or more persons signing the resort license application are  
2488 authorized to so act on behalf of the partnership, corporation, or limited liability company; and  
2489 (m) any other information the commission or department may require.
- 2490 (2) An additional location in or on a resort license premises of a resort license  
2491 applicant's business from which the resort license applicant may propose that an alcoholic  
2492 beverage may be stored, sold or served, or consumed, not included in the applicant's original  
2493 application may be approved by the department upon proper application.
- 2494 (3) (a) A resort license expires on October 31 of each year.
- 2495 (b) A resort licensee who wants to renew a resort license shall submit to the department  
2496 by no later than September 30:
- 2497 (i) a renewal fee of \$1,000 for each sublicense under the resort license; and  
2498 (ii) a completed renewal application.
- 2499 (c) A resort licensee's failure to meet a renewal requirement results in an automatic  
2500 forfeiture of the resort license effective on the date the existing license expires.
- 2501 (d) A renewal application shall be in a form as prescribed by the department.
- 2502 (4) To ensure compliance with Subsection 32A-4a-401(13), the commission may  
2503 suspend or revoke a resort license if the resort licensee fails to immediately notify the  
2504 department of a change in:
- 2505 (a) ownership of the resort licensee;  
2506 (b) for a corporate owner of a resort licensee, the:  
2507 (i) corporate officers or directors; or

2508 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2509 corporation; or

2510 (c) for a limited liability company owner or a resort licensee:

2511 (i) managers; or

2512 (ii) members owning at least 20% of the limited liability company.

2513 Section 20. Section **32A-4a-203** is enacted to read:

2514 **32A-4a-203. Qualifications.**

2515 (1) (a) The commission may not issue a resort license to a person who is convicted of:

2516 (i) a felony under a federal or state law;

2517 (ii) a violation of a federal or state law or local ordinance concerning the sale,

2518 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic  
2519 beverage;

2520 (iii) a crime involving moral turpitude; or

2521 (iv) on two or more occasions within the five years before the day on which the resort  
2522 license is issued, driving under the influence of alcohol, a drug, or the combined influence of  
2523 alcohol and a drug.

2524 (b) For a partnership, corporation, or limited liability company, the proscription under  
2525 Subsection (1)(a) applies if any of the following that will be engaged in the management of the  
2526 resort is convicted of an offense described in Subsection (1)(a):

2527 (i) a partner;

2528 (ii) a managing agent;

2529 (iii) a manager;

2530 (iv) an officer;

2531 (v) a director;

2532 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
2533 the applicant corporation; or

2534 (vii) a member who owns at least 20% of the applicant limited liability company.

2535 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a  
2536 supervisory or managerial capacity for the resort licensee or in relation to a sublicense is  
2537 convicted of an offense described in Subsection (1)(a).

2538 (2) Subject to Section 32A-4a-501, the commission may immediately suspend or

2539 revoke a resort license or a sublicense, if after the day on which the resort license is issued, a  
2540 person described in Subsection (1)(a), (b), or (c):

2541 (a) is found to have been convicted of an offense described in Subsection (1)(a) before  
2542 the resort license is issued; or

2543 (b) on or after the day on which the resort license is issued:

2544 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

2545 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined  
2546 influence of alcohol and a drug; and

2547 (B) was convicted of driving under the influence of alcohol, a drug, or the combined  
2548 influence of alcohol and a drug within five years before the day on which the person is  
2549 convicted of the offense described in Subsection (2)(b)(ii)(A).

2550 (3) Subject to Subsection 32A-4a-501, the director may take emergency action by  
2551 immediately suspending the operation of a resort license or sublicense in accordance with Title  
2552 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal  
2553 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

2554 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

2555 or

2556 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, a  
2557 drug, or the combined influence of alcohol and a drug; and

2558 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined  
2559 influence of alcohol and a drug within five years before the day on which the person is arrested  
2560 on a charge described in Subsection (3)(b)(i).

2561 (4) (a) (i) The commission may not issue a resort license to a person who has had any  
2562 type of license, agency, or permit issued under this title revoked within the three years prior to  
2563 the day on which the application for a resort license is filed.

2564 (ii) The commission may not issue a resort license to an applicant that is a partnership,  
2565 corporation, or limited liability company if a partner, managing agent, manager, officer,  
2566 director, stockholder who holds at least 20% of the total issued and outstanding stock of an  
2567 applicant corporation, or member who owns at least 20% of an applicant limited liability  
2568 company, will engage in the management of the resort, and is or was:

2569 (A) a partner or managing agent of a partnership that had any type of license, agency,

2570 or permit issued under this title revoked within three years prior to the day on which the  
2571 application for the resort license is filed;

2572 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
2573 of the total issued and outstanding stock of a corporation that had any type of license, agency,  
2574 or permit issued under this title revoked within three years prior to the day on which the  
2575 application for the resort license is filed; or

2576 (C) a manager or member who owns or owned at least 20% of a limited liability  
2577 company that had any type of license, agency, or permit issued under this title revoked within  
2578 three years prior to the day on which the application for the resort license is filed.

2579 (b) The commission may not issue a resort license to an applicant that is a partnership,  
2580 corporation, or limited liability company if any of the following who will engage in the  
2581 management of the resort had any type of license, agency, or permit issued under this title  
2582 revoked while acting in their individual capacity within three years prior to the day on which  
2583 the application for the resort license is filed:

2584 (i) a partner or managing agent of the applicant partnership;

2585 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
2586 total issued and outstanding stock of the applicant corporation; or

2587 (iii) a manager or member who owns at least 20% of the applicant limited liability  
2588 company.

2589 (c) The commission may not issue a person acting in an individual capacity a resort  
2590 license if that person was:

2591 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
2592 permit issued under this title revoked within three years prior to the day on which the  
2593 application for the resort license is filed;

2594 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
2595 total issued and outstanding stock of a corporation that had any type of license, agency, or  
2596 permit issued under this title revoked within three years prior to the day on which the  
2597 application for the resort license is filed; or

2598 (iii) a manager or member who owned at least 20% of the limited liability company  
2599 that had any type of license, agency, or permit issued under this title revoked within three years  
2600 prior to the day on which the application for the resort license is filed.

- 2601 (5) (a) The commission may not issue a minor a resort license.
- 2602 (b) The commission may not issue a resort license to an applicant that is a partnership,
- 2603 corporation, or limited liability company if any of the following is a minor:
- 2604 (i) a partner or managing agent of the applicant partnership;
- 2605 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
- 2606 total issued and outstanding stock of the applicant corporation; or
- 2607 (iii) a manager or member who owns at least 20% of the applicant limited liability
- 2608 company.
- 2609 (6) Subject to Subsection 32A-4a-501, if a person to whom a resort license is issued
- 2610 under this chapter no longer possesses the qualifications required by this title for obtaining the
- 2611 resort license, the commission may suspend or revoke the resort license.
- 2612 Section 21. Section **32A-4a-204** is enacted to read:
- 2613 **32A-4a-204. Commission and department duties before issuing resort license.**
- 2614 (1) (a) Before the commission may issue a resort license, the department shall conduct
- 2615 an investigation, and may hold public hearings for the purpose of gathering information and
- 2616 making recommendations to the commission as to whether or not a resort license, including
- 2617 each sublicense, should be issued.
- 2618 (b) The department shall forward the information and recommendations described in
- 2619 Subsection (1)(a) to the commission to aid in the commission's determination.
- 2620 (2) Before issuing a resort license, the commission shall:
- 2621 (a) determine that the applicant complies with all basic qualifications and requirements
- 2622 for making application for a resort license as provided by Sections 32A-4a-202 and
- 2623 32A-4a-203;
- 2624 (b) determine that the application is complete;
- 2625 (c) consider, where appropriate, a location that the resort license applicant proposes to
- 2626 designate for use under the resort license or a sublicense, including:
- 2627 (i) the physical characteristics of the location such as:
- 2628 (A) the condition of the location;
- 2629 (B) square footage; and
- 2630 (C) parking availability; and
- 2631 (ii) operational factors such as:

- 2632 (A) tourist traffic;  
2633 (B) demographics; and  
2634 (C) population to be served;  
2635 (d) consider the resort license applicant's ability to manage and operate a resort license  
2636 and the ability of any individual who will act in a supervisory or managerial capacity for a  
2637 sublicense, including:  
2638 (i) past management experience;  
2639 (ii) past alcohol license experience; and  
2640 (iii) the type of management scheme to be employed by the resort license applicant;  
2641 (e) consider the nature or type of:  
2642 (i) the resort license applicant's business operation; and  
2643 (ii) the business operation of each sublicense;  
2644 (f) subject to Subsection (3), determine that each sublicense meets the requirements  
2645 imposed under the provisions applicable to each sublicense; and  
2646 (g) consider any other factor or circumstance the commission considers necessary.  
2647 (3) (a) The commission may not include a sublicense in determining whether or not the  
2648 total number of licenses issued under the provisions applicable to the sublicense aggregate  
2649 more than a number calculated by dividing the population of the state by the number specified  
2650 in the provisions applicable to the sublicense.  
2651 (b) Subject to Subsection (3)(c), notwithstanding the requirements to obtain a license  
2652 under the provisions applicable to a sublicense, a sublicense of a resort license is not subject to:  
2653 (i) a requirement to submit an application or renewal application that is separate from  
2654 the resort license application;  
2655 (ii) a requirement to carry public liability insurance or dramshop insurance coverage  
2656 that is separate from that carried by the resort licensee; or  
2657 (iii) post a bond that is separate from the bond posted by the resort licensee.  
2658 (c) If a resort licensee seeks to add a sublicense after its resort license is issued, the  
2659 resort licensee shall file with the department:  
2660 (i) a nonrefundable \$250 application fee;  
2661 (ii) an initial license fee of \$2,000, which is refundable if a sublicense is not issued;  
2662 (iii) written consent of the local authority;

- 2663 (iv) a copy of:  
2664 (A) the resort licensee's current business license; and  
2665 (B) the current business license for the sublicense, if the business licensee is separate  
2666 from the resort licensee's business license;  
2667 (v) evidence that the sublicense premises is entirely within the resort license premises;  
2668 (vi) a description, floor plan, and boundary map of the sublicense premises  
2669 designating:  
2670 (A) a location at which the resort license applicant proposes that an alcoholic beverage  
2671 be stored; and  
2672 (B) a designated location on the sublicense premises from which the resort license  
2673 applicant proposes that an alcoholic beverage be sold or served and consumed;  
2674 (vii) evidence that the resort license applicant carries public liability insurance in an  
2675 amount and form satisfactory to the department;  
2676 (viii) evidence that the resort license applicant carries dramshop insurance coverage  
2677 equal to the amount required by Section 32A-4a-202 if the sublicense to be added is included;  
2678 (ix) a signed consent form stating that the resort licensee will permit any authorized  
2679 representative of the commission, department, or any law enforcement officer unrestricted right  
2680 to enter the sublicense premises;  
2681 (x) if the resort licensee is a partnership, corporation, or limited liability company,  
2682 proper verification evidencing that the one or more persons signing the sublicense application  
2683 are authorized to so act on behalf of the partnership, corporation, or limited liability company;  
2684 and  
2685 (xi) any other information the commission or department may require.
- 2686 Section 22. Section **32A-4a-205** is enacted to read:
- 2687 **32A-4a-205. Bond.**
- 2688 (1) (a) A resort licensee shall procure and post a cash or corporate surety bond payable  
2689 to the department in the penal sum of \$25,000.
- 2690 (b) A resort licensee shall maintain the bond described in Subsection (1)(a) for as long  
2691 as the resort licensee operates as a resort licensee.
- 2692 (c) A resort licensee is not required to have a separate bond for each sublicense, except  
2693 that the aggregate of any bonds posted by the resort licensee shall equal the amount required by

2694 Subsection (1)(a).

2695 (2) A bond described in Subsection (1) shall be in a form approved by the attorney  
2696 general, conditioned upon the licensee's faithful compliance with this title and the rules of the  
2697 commission.

2698 (3) (a) If a bond described in Subsection (1) is canceled due to a resort licensee's  
2699 negligence, the commission may assess a \$300 reinstatement fee.

2700 (b) No part of a bond described in Subsection (1) may be withdrawn:

2701 (i) during the period a resort license is in effect; or

2702 (ii) while a revocation proceeding is pending against the resort licensee that posts the  
2703 bond.

2704 (c) A bond filed by a resort licensee may be forfeited if the resort license is revoked.

2705 Section 23. Section **32A-4a-301** is enacted to read:

2706 **Part 3. Resort Amenity Sublicense**

2707 **32A-4a-301. Commission's power to issue resort amenity sublicense --**

2708 **Limitations.**

2709 (1) Before a resort amenity may sell or allow the consumption of an alcoholic beverage  
2710 on the resort amenity sublicense premises, a resort licensee or an applicant for a resort license  
2711 shall first obtain a resort amenity sublicense from the commission as provided in this part.

2712 (2) The commission may issue a resort amenity sublicense for the purpose of  
2713 establishing a resort amenity outlet on a resort license premises for the storage, sale, and  
2714 consumption of liquor on premises operated as a resort amenity.

2715 (3) The resort amenity sublicense premises must fall entirely within a resort license  
2716 premises.

2717 Section 24. Section **32A-4a-302** is enacted to read:

2718 **32A-4a-302. Application and renewal requirements.**

2719 (1) A person seeking a resort amenity sublicense under this part may not file a written  
2720 application with the department that is separate from the application of the resort license,  
2721 unless the resort amenity sublicense is being sought after the issuance of a resort license.

2722 (2) If a resort licensee seeks to add a resort amenity sublicense after its resort license is  
2723 issued, the resort licensee shall in accordance with Subsection 32A-4a-204(3) file a written  
2724 application with the department, in a form prescribed by the department. The application shall



- 2725 be accompanied by:
- 2726 (a) a nonrefundable \$250 application fee;
- 2727 (b) an initial license fee of \$2,000, which is refundable if a license is not issued;
- 2728 (c) written consent of the local authority;
- 2729 (d) a copy of:
- 2730 (i) the resort licensee's current business license; and
- 2731 (ii) a business license for the resort amenity, if the business license is separate from the
- 2732 resort licensee's business license;
- 2733 (e) evidence that the resort amenity sublicense premises are entirely within the resort
- 2734 license premises;
- 2735 (f) a floor or similar plan of the resort amenity, including consumption areas and the
- 2736 area where the resort licensee proposes to keep, store, and sell liquor;
- 2737 (g) evidence that the resort licensee carries public liability insurance in an amount and
- 2738 form satisfactory to the department;
- 2739 (h) evidence that the resort licensee's dramshop insurance coverage required under
- 2740 Section 32A-4a-202 covers the resort amenity sublicense;
- 2741 (i) a signed consent form stating that the resort licensee will permit any authorized
- 2742 representative of the commission, department, or any law enforcement officer unrestricted right
- 2743 to enter the resort amenity;
- 2744 (j) if an applicant is a partnership, corporation, or limited liability company, proper
- 2745 verification evidencing that the person or persons signing the application are authorized to so
- 2746 act on behalf of the partnership, corporation, or limited liability company; and
- 2747 (k) any other information the commission or department may require.
- 2748 (3) (a) A resort amenity sublicense expires on October 31 of each year.
- 2749 (b) A resort licensee desiring to renew the resort licensee's resort amenity sublicense
- 2750 shall renew the resort amenity sublicense as part of the resort license.
- 2751 (c) Failure to meet the renewal requirements for a resort license results in an automatic
- 2752 forfeiture of the resort amenity sublicense effective on the date the resort license expires.
- 2753 (d) A renewal application shall be in a form as prescribed by the department.
- 2754 (4) To ensure compliance with Subsection 32A-4a-305(31), the commission may
- 2755 suspend or revoke a resort amenity sublicense if the resort licensee does not immediately notify

2756 the department of a change described in Subsection 32A-4a-202(4).

2757 Section 25. Section **32A-4a-303** is enacted to read:

2758 **32A-4a-303. Qualifications.**

2759 (1) A person employed to act in a supervisory or managerial capacity for the resort  
2760 amenity restaurant is subject to qualification requirements of Section 32A-4a-203.

2761 (2) If a person to whom a resort license is issued under this chapter no longer possesses  
2762 the qualifications required by this title for obtaining that license, the commission may suspend  
2763 or revoke the resort amenity sublicense that is part of the resort license.

2764 Section 26. Section **32A-4a-304** is enacted to read:

2765 **32A-4a-304. Commission and department duties before issuing a resort amenity**  
2766 **sublicense.**

2767 (1) (a) If a resort licensee seeks to add a resort amenity sublicense after the resort  
2768 license is issued, before the commission may issue a resort amenity sublicense, the department  
2769 shall conduct an investigation and may hold public hearings for the purpose of gathering  
2770 information and making recommendations to the commission as to whether or not the resort  
2771 amenity sublicense should be issued.

2772 (b) The department shall forward the information and recommendations described in  
2773 Subsection (1)(a) to the commission to aid in the commission's determination.

2774 (2) Before issuing a resort amenity sublicense, the commission shall:

2775 (a) determine that:

2776 (i) the resort licensee seeking the resort amenity sublicense has complied with all basic  
2777 qualifications and requirements for making application for a resort amenity sublicense as  
2778 provided by Sections 32A-4a-302 and 32A-4a-303; and

2779 (ii) the application is complete;

2780 (b) consider the location within which the resort amenity outlet is located, including:

2781 (i) physical characteristics such as:

2782 (A) condition of the location;

2783 (B) square footage; and

2784 (C) parking availability; and

2785 (ii) operational factors such as:

2786 (A) tourist traffic;

2787 (B) demographics;  
2788 (C) population to be served; and  
2789 (D) the extent of and proximity to any community location;  
2790 (c) consider the resort licensee's ability to manage and operate a resort amenity  
2791 sublicense and the ability of any person who will act in a supervisory or managerial capacity  
2792 for the resort amenity to manage and operate a resort amenity license, including:

2793 (i) management experience;  
2794 (ii) past retail liquor experience; and  
2795 (iii) the type of management scheme employed by the resort amenity;  
2796 (d) consider the nature or type of resort amenity operation under the proposed resort  
2797 amenity sublicense, including:

2798 (i) the type of menu items offered and emphasized;  
2799 (ii) whether the resort amenity emphasizes service to an adult clientele or to minors;  
2800 (iii) the hours of operation;  
2801 (iv) the seating capacity of the resort amenity; and  
2802 (v) the gross sales of food items; and  
2803 (e) consider any other factors or circumstances the commission considers necessary.

2804 Section 27. Section **32A-4a-305** is enacted to read:

2805 **32A-4a-305. Operational restrictions.**

2806 (1) (a) A person issued a resort license and the employees and management personnel  
2807 of the resort licensee or otherwise related to a resort amenity sublicense shall comply with this  
2808 title, the rules of the commission, and the conditions and requirements in this section in the  
2809 operation of the resort amenity.

2810 (b) Subject to Subsection 32A-4a-502, failure to comply with this section may result in  
2811 a suspension or revocation of the resort license or resort amenity sublicense, or other  
2812 disciplinary action taken against individual employees or management personnel.

2813 (2) Subject to the other provisions of this section, a person operating under a resort  
2814 amenity sublicense may not sell an alcoholic beverage to or allow a person to be admitted to or  
2815 use the resort amenity sublicense premises other than:

2816 (a) a resident;

2817 (b) if the resort amenity is a spa, a public customer who holds a valid customer card

2818 issued under Subsection (4); or

2819 (c) an invitee.

2820 (3) A person operating under a resort amenity sublicense may allow an individual to be  
2821 admitted to or use the resort amenity sublicense premises as an invitee only under the following  
2822 conditions:

2823 (a) an invitee is previously authorized by one of the following who agrees to host the  
2824 invitee into the resort amenity:

2825 (i) a resident; or

2826 (ii) if the resort amenity is a spa, a public customer who holds a valid customer card  
2827 issued under Subsection (4);

2828 (b) an invitee must be known by the invitee's host based on a preexisting bonafide  
2829 business or personal relationship with the host before the invitee's admittance to the resort  
2830 amenity;

2831 (c) an invitee's host is responsible for the cost of services extended to the invitee;

2832 (d) an invitee has only those privileges derived from the invitee's host for the duration  
2833 of the invitee's visit to the resort amenity;

2834 (e) an employee of the resort licensee or resort amenity, while on duty, may not act as a  
2835 host for an invitee;

2836 (f) an employee of the resort licensee or resort amenity, while on duty, may not attempt  
2837 to locate a resident or public customer to serve as a host for an invitee with whom the resident  
2838 or public customer has no acquaintance based on a preexisting bonafide business or personal  
2839 relationship prior to the invitee's arrival at the resort amenity; and

2840 (g) a resort licensee, a resort amenity, or an employee of the resort amenity or resort  
2841 licensee may not enter into an agreement or arrangement with a resident or public customer to  
2842 indiscriminately host a member of the general public into the resort amenity as an invitee.

2843 (4) A person operating a spa under a resort amenity sublicense may issue a customer  
2844 card to allow an individual to enter and use the spa resort amenity sublicense premises on a  
2845 temporary basis under the following conditions:

2846 (a) the resort amenity may not issue a customer card for a time period that exceeds  
2847 three weeks;

2848 (b) the resort amenity shall assess a fee of not less than \$4 to a public customer for a

2849 customer card;  
2850 (c) the resort amenity may not issue a customer card to a minor;  
2851 (d) a public customer may not host more than seven invitees at one time;  
2852 (e) a customer card issued shall include:  
2853 (i) the full name and signature of the person to whom the customer card is issued;  
2854 (ii) the date the customer card is issued;  
2855 (iii) the date the customer card expires;  
2856 (iv) the resort amenity sublicense's name; and  
2857 (v) the serial number of the customer card; and  
2858 (f) (i) for purposes of the resort amenity sublicense, the resort licensee shall ensure that  
2859 a current record is maintained of the issuance of a customer card on the resort amenity  
2860 sublicense premises; and  
2861 (ii) the record described in Subsection (4)(f)(i) shall:  
2862 (A) be available for inspection by the department; and  
2863 (B) include:  
2864 (I) the name of the person to whom the customer card is issued;  
2865 (II) the date the customer card is issued;  
2866 (III) the date the customer card expires; and  
2867 (IV) the serial number of the customer card.  
2868 (5) (a) For purposes of the resort amenity sublicense, the resort licensee shall ensure  
2869 that an expense ledger or record is maintained showing in detail expenditures for the resort  
2870 amenity separated by payments for:  
2871 (i) malt or brewed beverage;  
2872 (ii) liquor;  
2873 (iii) food;  
2874 (iv) detailed payroll;  
2875 (v) entertainment;  
2876 (vi) rent;  
2877 (vii) utilities;  
2878 (viii) supplies; and  
2879 (ix) other expenditures.

2880 (b) For purposes of the resort amenity sublicense, the resort licensee shall ensure that a  
2881 record required by this Subsection (5) is kept:

2882 (i) in a form approved by the department; and

2883 (ii) balanced each month.

2884 (c) An expenditure shall be supported by:

2885 (i) a delivery ticket;

2886 (ii) an invoice;

2887 (iii) a receipted bill;

2888 (iv) a canceled check;

2889 (v) a petty cash voucher; or

2890 (vi) other sustaining datum or memorandum.

2891 (d) An invoice or receipted bill for the current calendar or fiscal year documenting a  
2892 purchase made by the resort licensee for the resort amenity sublicense shall be maintained.

2893 (e) For purposes of the resort amenity sublicense, the resort licensee shall ensure that  
2894 accounting and other records and documents as the department may require are maintained.

2895 (f) A resort licensee or an employee acting for the resort licensee or under a resort  
2896 amenity sublicense, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or  
2897 removes an entry in a book of account or other document for a resort amenity sublicense  
2898 required to be made, maintained, or preserved by this title or the rules of the commission for  
2899 the purpose of deceiving the commission, the department, or an official or employee of the  
2900 commission or department, is subject to:

2901 (i) the suspension or revocation of the resort amenity sublicense; and

2902 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2903 (g) (i) For purposes of the resort amenity sublicense, the resort licensee shall ensure  
2904 that a record required by this section is kept and maintained, and a book, record, receipt, or  
2905 disbursement is maintained or used for the resort amenity sublicense:

2906 (A) as the department requires; and

2907 (B) for a minimum period of three years.

2908 (ii) A record, book, receipt, or disbursement is subject to inspection by an authorized  
2909 representative of the commission and the department.

2910 (iii) A resort licensee shall allow the department, through an auditor or examiner of the

2911 department, to audit the records for a resort amenity sublicense at the times the department  
2912 considers advisable.

2913 (iv) The department shall audit the records of a resort amenity sublicense at least once  
2914 annually.

2915 (6) A resort licensee shall own or lease premises suitable for the resort amenity's  
2916 activities.

2917 (7) (a) A resort licensee may not maintain premises in a manner that barricades or  
2918 conceals the resort amenity sublicense's operation.

2919 (b) A member of the commission, authorized department personnel, or a peace officer  
2920 shall, upon presentation of credentials, be admitted immediately to a resort amenity sublicense  
2921 premises and permitted without hindrance or delay to inspect completely the entire resort  
2922 amenity sublicense premises and the books and records for the resort amenity sublicense, at any  
2923 time during which the resort amenity sublicense is open for the transaction of business with a  
2924 resident.

2925 (8) A resort amenity must have food available at all times when an alcoholic beverage  
2926 is sold, served, or consumed on the resort amenity sublicense premises.

2927 (9) (a) Liquor may not be purchased for a resort amenity sublicense except from a state  
2928 store or package agency.

2929 (b) Liquor purchased from a state store or package agency may be transported by the  
2930 resort licensee from the place of purchase to the resort amenity sublicense premises.

2931 (c) Payment for liquor shall be made in accordance with rules established by the  
2932 commission.

2933 (10) A person operating under a resort amenity sublicense may sell or provide a  
2934 primary spirituous liquor only in a quantity not to exceed 1.5 ounces per beverage dispensed  
2935 through a calibrated metered dispensing system approved by the department in accordance with  
2936 commission rules adopted under this title, except that:

2937 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2938 system if used as a secondary flavoring ingredient in a beverage subject to the following  
2939 restrictions:

2940 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
2941 a primary spirituous liquor;

2942 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

2943 (iii) the resort licensee shall designate a location where flavorings are stored on the

2944 floor plan provided to the department; and

2945 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

2946 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing

2947 system if used:

2948 (i) as a flavoring on a dessert; and

2949 (ii) in the preparation of a flaming food dish, drink, or dessert; and

2950 (c) a person at a resort amenity may have no more than:

2951 (i) 2.5 ounces of spirituous liquor at a time before the person; or

2952 (ii) two spirituous liquor drinks at a time before the person, except that the person may

2953 not have two spirituous liquor drinks before the person if one of the spirituous liquor drinks

2954 consists only of the primary spirituous liquor for the other spirituous liquor drink.

2955 (11) (a) (i) Wine may be sold and served by the glass or an individual portion not to

2956 exceed five ounces per glass or individual portion.

2957 (ii) An individual portion may be served to a person in more than one glass as long as

2958 the total amount of wine does not exceed five ounces.

2959 (iii) An individual portion of wine is considered to be one alcoholic beverage under

2960 Subsection (15)(c).

2961 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price

2962 fixed by the commission to a table of four or more persons.

2963 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price

2964 fixed by the commission to a table of less than four persons.

2965 (c) A wine service may be performed and a service charge assessed by a resort amenity

2966 as authorized by commission rule for wine purchased at the resort amenity.

2967 (12) (a) Heavy beer may be served in an original container not exceeding one liter at a

2968 price fixed by the commission.

2969 (b) A flavored malt beverage may be served in an original container not exceeding one

2970 liter at a price fixed by the commission.

2971 (c) A service charge may be assessed by the resort amenity for heavy beer or a flavored

2972 malt beverage purchased at the resort amenity.



2973 (13) (a) (i) Subject to Subsection (13)(a)(ii), a person operating under a resort amenity  
2974 sublicense may sell beer for on-premise consumption:

2975 (A) in an open container; and

2976 (B) on draft.

2977 (ii) Beer sold pursuant to Subsection (13)(a)(i) shall be in a size of container that does  
2978 not exceed two liters, except that beer may not be sold to an individual in a size of container  
2979 that exceeds one liter.

2980 (b) (i) A person operating under a resort amenity sublicense who sells beer pursuant to  
2981 Subsection (13)(a):

2982 (A) may do so without obtaining a separate on-premise beer retailer license from the  
2983 commission; and

2984 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
2985 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
2986 inconsistent with or less restrictive than the operational restrictions under this part.

2987 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
2988 Licenses, required by Subsection (13)(b)(i) may result in a suspension or revocation of the  
2989 resort amenity's:

2990 (A) state liquor sublicense; and

2991 (B) alcoholic beverage license issued by a local authority.

2992 (14) An alcoholic beverage may not be stored, served, or sold in a place other than as  
2993 designated in the resort licensee's application, unless the resort licensee first applies for and  
2994 receives approval from the department for a change of location within the resort amenity.

2995 (15) (a) A person may only make an alcoholic beverage purchase in the resort amenity  
2996 from and be served by a person employed, designated, and trained by the resort licensee or an  
2997 agent of the resort license to sell, dispense, and serve an alcoholic beverage.

2998 (b) Notwithstanding Subsection (15)(a), a person who purchases bottled wine from an  
2999 employee described in Subsection (15)(a) or carries bottled wine onto the resort amenity  
3000 sublicense premises pursuant to Subsection (22) may thereafter serve wine from the bottle to  
3001 the person or others at the person's table.

3002 (c) An individual furnished an alcoholic beverage at a resort amenity may have no  
3003 more than two alcoholic beverages of any kind at a time before the individual, subject to the

3004 limitation of Subsection (10)(c)(ii).

3005 (16) The liquor storage area shall remain locked at all times other than those hours and  
3006 days when liquor sales and service are authorized by law.

3007 (17) (a) An alcoholic beverage may only be consumed at a table or counter.

3008 (b) An alcoholic beverage may not be served to or consumed by a person at a bar.

3009 (18) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
3010 resort amenity after 1 a.m. or before 10 a.m.

3011 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
3012 Licenses, for on-premise beer licenses.

3013 (c) (i) Notwithstanding Subsections (18)(a) and (b), a resort amenity shall remain open  
3014 for one hour after the resort amenity ceases the sale and service of an alcoholic beverage during  
3015 which time a person at the resort amenity may finish consuming:

3016 (A) a single drink containing spirituous liquor;

3017 (B) a single serving of wine not exceeding five ounces;

3018 (C) a single serving of heavy beer;

3019 (D) a single serving of beer not exceeding 26 ounces; or

3020 (E) a single serving of a flavored malt beverage.

3021 (ii) A resort amenity is not required to remain open:

3022 (A) after all persons have vacated the resort amenity sublicense premises; or

3023 (B) during an emergency.

3024 (d) Between the hours of 2 a.m. and 10 a.m. a person operating under a resort amenity  
3025 sublicense may not allow a person to remain on the resort amenity sublicense premises to  
3026 consume an alcoholic beverage on the resort amenity sublicense premises.

3027 (19) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

3028 (a) minor;

3029 (b) person actually, apparently, or obviously intoxicated;

3030 (c) known habitual drunkard; or

3031 (d) known interdicted person.

3032 (20) (a) (i) Liquor may be sold only at a price fixed by the commission.

3033 (ii) Liquor may not be sold at a discount price on any date or at any time.

3034 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic

3035 beverage for the resort amenity sublicense.

3036 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
3037 over consumption or intoxication.

3038 (d) The price of a single serving of a primary spirituous liquor shall be the same  
3039 whether served as a single drink or in conjunction with another alcoholic beverage.

3040 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain  
3041 hours of the resort amenity's business day such as a "happy hour."

3042 (f) More than one alcoholic beverage may not be sold or served for the price of a single  
3043 alcoholic beverage.

3044 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served  
3045 during a set period for a fixed price.

3046 (h) A person operating under a resort amenity sublicense may not engage in a  
3047 promotion involving or offering a free alcoholic beverage to a person at the resort amenity.

3048 (21) An alcoholic beverage may not be purchased for a person at the resort amenity by:

3049 (a) the resort licensee; or

3050 (b) an employee or agent of the resort licensee or resort amenity.

3051 (22) (a) A person may not bring onto the resort amenity sublicense premises an  
3052 alcoholic beverage for on-premise consumption, except that a person may bring, subject to the  
3053 discretion of the resort licensee, bottled wine onto the resort amenity sublicense premises for  
3054 on-premise consumption.

3055 (b) Except as provided in Subsection (22)(a), a person operating under a resort amenity  
3056 sublicense including an officer, manager, employee, or agent of a resort amenity or resort  
3057 licensee may not allow a person to bring onto the resort amenity sublicense premises an  
3058 alcoholic beverage for consumption on the resort amenity license premises.

3059 (c) If bottled wine is carried in by a person, the person shall deliver the wine to a server  
3060 or other representative of the resort amenity upon entering the resort amenity.

3061 (d) A wine service may be performed and a service charge assessed by the resort  
3062 amenity as authorized by commission rule for wine carried in by a person.

3063 (23) (a) Except as provided in Subsection (23)(b), a person operating under a resort  
3064 amenity sublicense or an employee of that person may not permit a person to carry from the  
3065 resort amenity sublicense premises an open container that:

- 3066 (i) is used primarily for drinking purposes; and
- 3067 (ii) contains an alcoholic beverage.
- 3068 (b) A person may remove the unconsumed contents of a bottle of wine, if before
- 3069 removal, the bottle is recorked or recapped.
- 3070 (24) (a) A minor may not be employed to sell, dispense, or handle an alcoholic
- 3071 beverage for a resort amenity.
- 3072 (b) Notwithstanding Subsection (24)(a), a minor who is at least 16 years of age may be
- 3073 employed to enter the sale at a cash register or other sales recording device.
- 3074 (25) An employee for a resort amenity, while on duty, may not:
- 3075 (a) consume an alcoholic beverage; or
- 3076 (b) be intoxicated.
- 3077 (26) (a) A person operating under a resort amenity sublicense shall have available on
- 3078 the resort amenity sublicense premises for a person to review at the time that the customer
- 3079 requests it, a written alcoholic beverage price list or a menu containing the price of an alcoholic
- 3080 beverage sold or served by the resort amenity including:
- 3081 (i) a set-up charge;
- 3082 (ii) a service charge; or
- 3083 (iii) a chilling fee.
- 3084 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
- 3085 may be stated in food or alcoholic beverage menus including:
- 3086 (i) a set-up charge;
- 3087 (ii) a service charge; or
- 3088 (iii) a chilling fee.
- 3089 (27) For purposes of the resort amenity sublicense, the resort licensee shall ensure that
- 3090 the following are displayed in a prominent place in the resort amenity:
- 3091 (a) the resort amenity sublicense that is issued by the department;
- 3092 (b) a list of the types and brand names of liquor being served through its calibrated
- 3093 metered dispensing system; and
- 3094 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 3095 drugs is a serious crime that is prosecuted aggressively in Utah."
- 3096 (28) A person operating under a resort amenity sublicense may not on the resort

3097 amenity sublicense premises:

3098 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
3099 Chapter 10, Part 11, Gambling;

3100 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,  
3101 Part 11, Gambling; or

3102 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
3103 the risking of something of value for a return or for an outcome when the return or outcome is  
3104 based upon an element of chance, excluding the playing of an amusement device that confers  
3105 only an immediate and unrecorded right of replay not exchangeable for value.

3106 (29) (a) A resort licensee may not close or cease operation of a resort amenity  
3107 sublicense for a period longer than 240 hours, unless:

3108 (i) the resort licensee notifies the department in writing at least seven days before the  
3109 day on which the resort amenity closes or ceases operation; and

3110 (ii) the closure or cessation of operation is first approved by the department.

3111 (b) Notwithstanding Subsection (29)(a), in the case of emergency closure, the resort  
3112 licensee shall immediately notify the department by telephone.

3113 (c) (i) The department may authorize a closure or cessation of operation for a period  
3114 not to exceed 60 days.

3115 (ii) The department may extend the initial period an additional 30 days upon:

3116 (A) written request of the resort licensee; and

3117 (B) a showing of good cause.

3118 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
3119 commission approval.

3120 (d) The notice required by Subsection (29)(a) shall include:

3121 (i) the dates of closure or cessation of operation;

3122 (ii) the reason for the closure or cessation of operation; and

3123 (iii) the date on which the resort amenity will reopen or resume operation.

3124 (e) Failure of the resort licensee to provide notice and to obtain department  
3125 authorization before closure or cessation of operation results in an automatic forfeiture of:

3126 (i) the resort amenity sublicense; and

3127 (ii) the unused portion of the resort amenity sublicense fee for the remainder of the

3128 license year effective immediately.

3129 (f) Failure of the resort amenity to reopen or resume operation by the approved date  
3130 results in an automatic forfeiture of:

3131 (i) the resort amenity sublicense; and

3132 (ii) the unused portion of the resort amenity sublicense fee for the remainder of the  
3133 license year.

3134 (30) A resort amenity sublicense may not be transferred from one location to another  
3135 location, without prior written approval of the commission.

3136 (31) (a) A resort licensee, may not sell, transfer, assign, exchange, barter, give, or  
3137 attempt in any way to dispose of the resort amenity sublicense to another person, whether for  
3138 monetary gain or not.

3139 (b) A resort amenity sublicense has no monetary value for the purpose of any type of  
3140 disposition.

3141 (32) A person operating under a resort amenity sublicense or an employee of that  
3142 person may not knowingly allow a person on the resort amenity sublicense premises to, in  
3143 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug  
3144 Paraphernalia Act:

3145 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3146 58-37-2; or

3147 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3148 Section 58-37a-3.

3149 Section 28. Section **32A-4a-401** is enacted to read:

3150 **Part 4. Operational Requirements**

3151 **32A-4a-401. Operational restrictions for resort license.**

3152 (1) (a) A person issued a resort license and the employees and management personnel  
3153 of the resort licensee including those operating under a sublicense shall comply with this title,  
3154 the rules of the commission, and the conditions and requirements in this section.

3155 (b) Subject to Section 32A-4a-502, failure to comply with this section may result in a  
3156 suspension or revocation of the resort license or a sublicense, or other disciplinary action taken  
3157 against individual employees or management personnel.

3158 (2) (a) A resort licensee may not offer for sale, sell, serve, or otherwise furnish an

3159 alcoholic beverage except:

3160 (i) on a sublicense premises;

3161 (ii) pursuant to a permit issued under this title; or

3162 (iii) under a package agency agreement with the department, subject to Chapter 3,

3163 Package Agencies.

3164 (b) A resort licensee who offers for sale, sells, serves, or otherwise furnishes an

3165 alcoholic beverage as provided in Subsection (2)(a), shall offer for sale, sell, or furnish the

3166 alcoholic beverage:

3167 (i) if on a sublicense premise, in accordance with the operational requirements under  
3168 the provisions applicable to the sublicense, except as provided in Section 32A-4a-402;

3169 (ii) if under a permit issued under this title, in accordance with the operational  
3170 requirements under the provisions applicable to the permit; and

3171 (iii) if as a package agency, in accordance with the contract with the department and  
3172 Chapter 3, Package Agencies.

3173 (3) A person involved in the sale or service of an alcoholic beverage under a resort  
3174 license shall:

3175 (a) be under the supervision and direction of the resort licensee; and

3176 (b) complete the seminar provided for in Section 62A-15-401.

3177 (4) (a) A resort licensee may not purchase liquor except from a state store or package  
3178 agency.

3179 (b) Liquor purchased by a resort licensee in accordance with this Subsection (4) may be  
3180 transported by the resort licensee from the place of purchase to the resort license premises.

3181 (c) A resort licensee shall pay for liquor in accordance with rules made by the  
3182 commission.

3183 (5) An alcoholic beverage may not be stored, served, or sold in a place other than as  
3184 designated in the resort licensee's application, except that an additional location in or on a  
3185 resort license premises may be approved in accordance with guidelines approved by the  
3186 commission.

3187 (6) An alcoholic beverage storage area on the resort license premises shall remain  
3188 locked at all times other than those hours and days when alcoholic beverage sales are  
3189 authorized by law.

- 3190 (7) An alcoholic beverage may not be offered for sale, sold, served, or otherwise  
3191 furnished for consumption on the resort license premises:
- 3192 (a) before 10 a.m.; or  
3193 (b) after 1 p.m.
- 3194 (8) A resort licensee may not engage in a public promotion involving or offering a free  
3195 alcoholic beverage to the general public.
- 3196 (9) A resort licensee may not on the resort license premises:
- 3197 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
3198 Chapter 10, Part 11, Gambling;
- 3199 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
3200 Part 11, Gambling; or
- 3201 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
3202 the risking of something of value for a return or for an outcome when the return or outcome is  
3203 based upon an element of chance, excluding the playing of an amusement device that confers  
3204 only an immediate and unrecorded right of replay not exchangeable for value.
- 3205 (10) (a) A resort licensee shall maintain accounting and such other records and  
3206 documents as the commission or department may require.
- 3207 (b) A resort licensee or person acting for the resort licensee, who knowingly forges,  
3208 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other  
3209 document of the resort licensee required to be made, maintained, or preserved by this title or  
3210 the rules of the commission for the purpose of deceiving the commission, the department, or an  
3211 official or employee of the commission or department, is subject to:
- 3212 (i) the suspension or revocation of the resort license; and  
3213 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 3214 (11) (a) Subject to Subsection (11)(b), a resort license shall operate in a manner so that  
3215 at least 70% of the annual aggregate of the gross receipts related to the sale of food or  
3216 beverages for the resort license and each of its sublicenses is from the sale of food, not  
3217 including:
- 3218 (i) mix for an alcoholic beverage; and  
3219 (ii) a charge in connection with the service of an alcoholic beverage.
- 3220 (b) In calculating the annual aggregate of the gross receipts described in Subsection



3221 (11)(a), a resort licensee is not required to include in the calculation monies from the sale of a  
3222 bottle of wine by the retail licensee or under a sublicense in excess of \$250.

3223 (12) A person may not transfer a resort license from one business location to another  
3224 without prior written approval of the commission.

3225 (13) (a) A resort licensee may not sell, transfer, assign, exchange, barter, give, or  
3226 attempt in any way to dispose of the license to another person, whether for monetary gain or  
3227 not.

3228 (b) A resort license has no monetary value for the purpose of any type of disposition.

3229 (14) (a) Room service of an alcoholic beverage to a lodging accommodation of a resort  
3230 facility shall be provided in person by a resort licensee employee only to an adult occupant in  
3231 the lodging accommodation.

3232 (b) An alcoholic beverage may not be left outside a lodging accommodation for  
3233 retrieval by an occupant.

3234 (c) A resort licensee may only provide an alcoholic beverage for room service in a  
3235 sealed container.

3236 (15) A resort licensee or an employee of the resort licensee may not knowingly allow a  
3237 person on the resort license premises to, in violation of Title 58, Chapter 37, Utah Controlled  
3238 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3239 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3240 58-37-2; or

3241 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3242 Section 58-37a-3.

3243 Section 29. Section **32A-4a-402** is enacted to read:

3244 **32A-4a-402. Operational restrictions for a sublicense.**

3245 (1) A person operating under a sublicense is subject to the operational restrictions  
3246 under the provisions applicable to the sublicense except that, notwithstanding a requirement in  
3247 the provisions applicable to the sublicense a person operating under the sublicense is not  
3248 subject to:

3249 (a) a requirement that a certain percentage of the gross receipts for the sublicense be  
3250 from the sale of food, except to the extent that the gross receipts for the sublicense is included  
3251 in calculating the percentages under Subsection 32A-4a-401(11); and

3252 (b) a restriction on the hours that an alcoholic beverage may be offered for sale, sold,  
3253 served, or otherwise furnished that is more restrictive than the hour requirements of Subsection  
3254 32A-4a-401(7).

3255 (2) Subject to Section 32A-4a-501, for purposes of interpreting an operational  
3256 restriction imposed by the provisions applicable to a sublicense:

3257 (a) a requirement imposed on a person operating under a sublicense applies to the  
3258 resort licensee; and

3259 (b) a requirement imposed on an employee or agent of a person operating under a  
3260 sublicense applies to an employee or agent of the resort licensee.

3261 Section 30. Section **32A-4a-501** is enacted to read:

3262 **Part 5. Enforcement**

3263 **32A-4a-501. Enforcement of qualifications for a resort license or sublicense.**

3264 (1) The commission or department may not take an action described in Subsection (2)  
3265 with regard to a resort license unless the person who is found not to meet the qualifications of  
3266 Section 32A-4a-203 is one of the following who is engaged in the management of the resort:

3267 (a) a partner;

3268 (b) a managing agent;

3269 (c) a manager;

3270 (d) an officer;

3271 (e) a director;

3272 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the  
3273 applicant corporation;

3274 (g) a member who owns at least 20% of the applicant limited liability company; or

3275 (h) a person employed to act in a supervisory or managerial capacity for the resort  
3276 licensee.

3277 (2) Subsection (1) applies to:

3278 (a) the commission immediately suspending or revoking a resort license, if after the  
3279 day on which the resort license is issued, a person described in Subsection 32A-4a-203(1)(a),

3280 (b), or (c):

3281 (i) is found to have been convicted of an offense described in Subsection

3282 32A-4a-203(1)(a) prior to the resort license being issued; or

3283 (ii) on or after the day on which the resort license is issued:  
3284 (A) is convicted of an offense described in Subsection 32A-4a-203(1)(a)(i), (ii), or (iii);  
3285 or  
3286 (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined  
3287 influence of alcohol and a drug; and  
3288 (II) was convicted of driving under the influence of alcohol, a drug, or the combined  
3289 influence of alcohol and a drug within five years before the day on which the person is  
3290 convicted of the offense described in Subsection 32A-4a-203(2)(b)(ii)(A);  
3291 (b) the director taking an emergency action by immediately suspending the operation of  
3292 a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for  
3293 the period during which the criminal matter is being adjudicated if a person described in  
3294 Subsection 32A-4a-203(1)(a), (b), or (c):  
3295 (i) is arrested on a charge for an offense described in Subsection 32A-4a-203(1)(a)(i),  
3296 (ii), or (iii); or  
3297 (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,  
3298 a drug, or the combined influence of alcohol and a drug; and  
3299 (B) was convicted of driving under the influence of alcohol, a drug, or the combined  
3300 influence of alcohol and a drug within five years before the day on which the person is arrested  
3301 on a charge described in Subsection (2)(b)(i); and  
3302 (c) the commission suspending or revoking a resort license because a person to whom a  
3303 resort license is issued under this chapter no longer possesses the qualifications required by this  
3304 title for obtaining the resort license.  
3305 Section 31. Section **32A-4a-502** is enacted to read:  
3306 **32A-4a-502. Enforcement of operational restrictions for a resort license or**  
3307 **sublicense.**  
3308 (1) (a) Except as provided in Subsection (2), failure by a person described in  
3309 Subsection (1)(b) to comply with this chapter or an operational restriction under a provision  
3310 applicable to a sublicense may result in:  
3311 (i) a suspension or revocation of the resort license;  
3312 (ii) a fine or other administrative sanction permitted under this title; or  
3313 (iii) other disciplinary action taken against an individual employee or management

3314 personnel of a resort licensee.

3315 (b) This Subsection (1) applies to:

3316 (i) a resort licensee;

3317 (ii) a person operating under a sublicense;

3318 (iii) an employee of a resort licensee or other person operating under a sublicense;

3319 (iv) an agent of a resort licensee or other person operating under a sublicense; or

3320 (v) personnel management of a resort licensee or other person operating under a  
3321 sublicense.

3322 (2) (a) Notwithstanding the other provisions of this chapter and Section 32A-1-119, if  
3323 the failure to comply with this chapter described in Subsection (1) relates to an offer to sale,  
3324 sell, service, or furnishing of an alcoholic beverage on a sublicense premises, a resort licensee  
3325 or an individual member of the resort licensee's management personnel is subject to a sanction  
3326 described in Subsection (1), only if the commission finds that:

3327 (i) during the three years before the day on which the commission makes the finding,  
3328 there is three or more disciplinary proceedings against any person operating under a sublicense  
3329 of the resort licensee for failure to comply with an operational restriction applicable to the  
3330 sublicense; and

3331 (ii) the resort licensee has not taken reasonable steps to prevent persons operating  
3332 under a sublicense of the resort licensee from failing to comply with operational restrictions  
3333 applicable to the sublicense.

3334 (b) This Subsection (2) applies if the three or more disciplinary proceedings described  
3335 in Subsection (2)(a) are against:

3336 (i) the same person operating under a sublicense of the resort licensee; or

3337 (ii) two or more different persons operating under a sublicense of the resort licensee.

3338 (3) An operational restriction applicable to a person operating under a sublicense is  
3339 enforced as provided by the provisions applicable to the sublicense.

3340 Section 32. Section **32A-4a-503** is enacted to read:

3341 **32A-4a-503. Enforcement of Nuisance Licensee Act.**

3342 Chapter 15a, Nuisance Licensee Act, applies to a resort license only if three or more of  
3343 the sublicenses of the resort license have not been renewed under Chapter 15a, Nuisance  
3344 Licensee Act, within three years from the day on which a resort licensee applies for the renewal

3345 of its resort license.

3346 Section 33. Section **32A-5-101** is amended to read:

3347 **32A-5-101. Commission's power to license private clubs -- Limitations.**

3348 (1) Before a private club may sell or allow the consumption of alcoholic beverages on  
3349 its premises, the private club shall first obtain a license from the commission as provided in  
3350 this chapter.

3351 (2) The commission may grant private club licenses to social clubs, recreational,  
3352 athletic, or kindred associations that desire to maintain premises upon which alcoholic  
3353 beverages may be stored, sold, served, and consumed.

3354 (3) At the time the commission grants a private club license the commission shall  
3355 designate whether the private club license qualifies as a class A, B, C, or D license as defined  
3356 in Subsections (3)(a) through (d).

3357 (a) A "class A licensee" is a private club licensee that:

3358 (i) meets the requirements of this chapter;

3359 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a  
3360 club house such as:

3361 (A) a golf course; or

3362 (B) a tennis facility;

3363 (iii) has at least 50% of the total membership having:

3364 (A) full voting rights; and

3365 (B) an equal share of the equity of the club; and

3366 (iv) if there is more than one class of membership, has at least one class of membership  
3367 that entitles each member in that class to:

3368 (A) full voting rights; and

3369 (B) an equal share of the equity of the club.

3370 (b) A "class B licensee" is a private club licensee that:

3371 (i) meets the requirements of this chapter;

3372 (ii) has no capital stock;

3373 (iii) exists solely for:

3374 (A) the benefit of its members and their beneficiaries; and

3375 (B) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,

3376 patriotic, or religious purpose for the benefit of its members or the public, carried on through  
3377 voluntary activity of its members in their local lodges;

3378 (iv) has a representative form of government; and

3379 (v) has a lodge system in which:

3380 (A) there is a supreme governing body;

3381 (B) subordinate to the supreme governing body are local lodges, however designated,  
3382 into which individuals are admitted as members in accordance with the laws of the fraternal;

3383 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at  
3384 least monthly; and

3385 (D) the local lodges regularly engage in one or more programs involving member  
3386 participation to implement the purposes of Subsection (3)(b)(iii).

3387 (c) A "class C licensee" is a private club licensee that:

3388 (i) meets the requirements of this chapter;

3389 (ii) is a dining club, as determined by the commission in accordance with Subsection  
3390 (4); and

3391 (iii) maintains at least 50% of its total private club business from the sale of food, not  
3392 including:

3393 (A) mix for alcoholic beverages; or

3394 (B) service charges.

3395 (d) A "class D licensee" is a private club licensee that:

3396 (i) meets the requirements of this chapter; and

3397 (ii) (A) does not meet the requirements of a class A, B, or C license; or

3398 (B) seeks to qualify as a class D licensee.

3399 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the  
3400 commission:

3401 (a) shall determine whether the applicant maintains at least 50% of its total private club  
3402 business from the sale of food, not including:

3403 (i) mix for alcoholic beverages;

3404 (ii) service charges; or

3405 (iii) membership and visitor card fees; and

3406 (b) may consider:

- 3407 (i) the square footage and seating capacity of the applicant;
- 3408 (ii) what portion of the square footage and seating capacity will be used for a dining  
3409 area in comparison to the portion that will be used as a bar area;
- 3410 (iii) whether full meals including appetizers, main courses, and desserts are served;
- 3411 (iv) whether the applicant will maintain adequate on-premise culinary facilities to  
3412 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility  
3413 may use the culinary facilities of the hotel or resort facility;
- 3414 (v) whether the entertainment provided at the club is suitable for minors; and
- 3415 (vi) the club management's ability to manage and operate a dining club including:
- 3416 (A) management experience;
- 3417 (B) past dining club or restaurant management experience; and
- 3418 (C) the type of management scheme employed by the private club.
- 3419 (5) (a) A private club or any officer, director, managing agent, or employee of a private  
3420 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises  
3421 of the club, under a permit issued by local authority or otherwise, unless a private club license  
3422 is first issued by the commission.
- 3423 (b) Violation of this Subsection (5) is a class B misdemeanor.
- 3424 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue  
3425 private club licenses at places and in numbers as the commission considers necessary.
- 3426 (b) The total number of private club licenses may not at any time aggregate more than  
3427 that number determined by dividing the population of the state by [~~7,850~~] 8,327.
- 3428 (c) For purposes of this Subsection (6), population shall be determined by:
- 3429 (i) the most recent United States decennial or special census; or
- 3430 (ii) another population determination made by the United States or state governments.
- 3431 (d) (i) The commission may issue seasonal private club licenses to be established in  
3432 areas the commission considers necessary.
- 3433 (ii) A seasonal private club license shall be for a period of six consecutive months.
- 3434 (iii) A private club license issued for operation during a summer time period is known  
3435 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license  
3436 shall:
- 3437 (A) begin on May 1; and

3438 (B) end on October 31.

3439 (iv) A private club license issued for operation during a winter time period is known as  
3440 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license  
3441 shall:

3442 (A) begin on November 1; and

3443 (B) end on April 30.

3444 (v) In determining the number of private club licenses that the commission may issue  
3445 under this section:

3446 (A) a seasonal private club license is counted as 1/2 of one private club license; and

3447 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

3448 (e) (i) If the location, design, and construction of a hotel may require more than one  
3449 private club location within the hotel to serve the public convenience, the commission may  
3450 authorize as many as three private club locations within the hotel under one license if:

3451 (A) the hotel has a minimum of 150 guest rooms; and

3452 (B) all locations under the license are:

3453 (I) within the same hotel facility; and

3454 (II) on premises which are managed or operated and owned or leased by the licensee.

3455 (ii) A facility other than a hotel may not have more than one private club location under  
3456 a single private club license.

3457 (7) (a) Except as provided in Subsection (7)(b), (c), or (d), the premises of a private  
3458 club license may not be established:

3459 (i) within 600 feet of a community location, as measured by the method in Subsection  
3460 (7)(e); or

3461 (ii) within 200 feet of a community location, measured in a straight line from the  
3462 nearest entrance of the proposed outlet to the nearest property boundary of the community  
3463 location.

3464 (b) With respect to the establishment of a private club license, the commission may  
3465 authorize a variance to reduce the proximity requirement of Subsection (7)(a)(i) if:

3466 (i) the local authority grants its written consent to the variance;

3467 (ii) the commission finds that alternative locations for establishing a private club  
3468 license in the community are limited;



3469 (iii) a public hearing is held in the city, town, or county, and where practical in the  
3470 neighborhood concerned;

3471 (iv) after giving full consideration to all of the attending circumstances and the policies  
3472 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
3473 license would not be detrimental to the public health, peace, safety, and welfare of the  
3474 community; and

3475 (v) (A) the community location governing authority gives its written consent to the  
3476 variance; or

3477 (B) when written consent is not given by the community location governing authority,  
3478 the commission finds that the applicant has established that:

3479 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3480 within the geographic boundary of the local authority in which the private club licensee is to be  
3481 located;

3482 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3483 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club  
3484 licensee; and

3485 (III) there is no reasonably viable alternative location within the geographic boundary  
3486 of the local authority in which the private club licensee is to be located for establishing a  
3487 private club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).

3488 (c) With respect to the establishment of a private club license, the commission may  
3489 authorize a variance that reduces the proximity requirement of Subsection (7)(a)(ii) if:

3490 (i) the community location at issue is:

3491 (A) a public library; or

3492 (B) a public park;

3493 (ii) the local authority grants its written consent to the variance;

3494 (iii) the commission finds that alternative locations for establishing a private club  
3495 license in the community are limited;

3496 (iv) a public hearing is held in the city, town, or county, and where practical in the  
3497 neighborhood concerned;

3498 (v) after giving full consideration to all of the attending circumstances and the policies  
3499 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the

3500 private club license would not be detrimental to the public health, peace, safety, and welfare of  
3501 the community; and

3502 (vi) (A) the community location governing authority gives its written consent to the  
3503 variance; or

3504 (B) when written consent is not given by the community location governing authority,  
3505 the commission finds that the applicant has established that:

3506 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3507 within the geographic boundary of the local authority in which the private club licensee is to be  
3508 located;

3509 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3510 described in Subsection (7)(c)(vi)(B)(I) other than through the establishment of a private club  
3511 license; and

3512 (III) there is no reasonably viable alternative location within the geographic boundary  
3513 of the local authority in which the private club licensee is to be located for establishing a  
3514 private club license to satisfy the unmet demand described in Subsection (7)(c)(vi)(B)(I).

3515 (d) With respect to the premises of a private club license issued by the commission that  
3516 undergoes a change of ownership, the commission may waive or vary the proximity  
3517 requirements of Subsection (7)(a) in considering whether to grant a private club license to the  
3518 new owner of the premises if:

3519 (i) (A) the premises previously received a variance reducing the proximity requirement  
3520 of Subsection (7)(a)(i); or

3521 (B) the premises received a variance reducing the proximity requirement of Subsection  
3522 (7)(a)(ii) on or before May 4, 2008; or

3523 (ii) a variance from proximity requirements was otherwise allowed under this title.

3524 (e) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the  
3525 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
3526 property boundary of the community location.

3527 (8) (a) Nothing in this section prevents the commission from considering the proximity  
3528 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
3529 decision on whether to issue a private club license.

3530 (b) For purposes of this Subsection (8), "educational facility" includes:

- 3531 (i) a nursery school;  
3532 (ii) infant day care center; and  
3533 (iii) a trade and technical school.

3534 (9) If requested by a private club licensee, the commission may approve a change in the  
3535 class of private club license in accordance with rules made by the commission.

3536 Section 34. Section **32A-5-102** is amended to read:

3537 **32A-5-102. Application and renewal requirements.**

3538 (1) A club seeking a class A, B, C, or D private club license under this chapter shall  
3539 file a written application with the department in a form prescribed by the department. The  
3540 application shall be accompanied by:

- 3541 (a) a nonrefundable \$250 application fee;  
3542 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;  
3543 (c) written consent of the local authority;  
3544 (d) a copy of the applicant's current business license;  
3545 (e) evidence of proximity to any community location, with proximity requirements  
3546 being governed by Section 32A-5-101;  
3547 (f) evidence that the applicant operates a club where a variety of food is prepared and  
3548 served in connection with dining accommodations;  
3549 (g) a bond as specified by Section 32A-5-106;  
3550 (h) a floor plan of the club premises, including consumption areas and the area where  
3551 the applicant proposes to keep and store liquor;  
3552 (i) evidence that the club is carrying public liability insurance in an amount and form  
3553 satisfactory to the department;  
3554 (j) evidence that the club is carrying dramshop insurance coverage of at least  
3555 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;  
3556 (k) a copy of the club's bylaws or house rules, and any amendments to those  
3557 documents, which shall be kept on file with the department at all times;  
3558 (l) a signed consent form stating that the club and its management will permit any  
3559 authorized representative of the commission, department, or any law enforcement officer  
3560 unrestricted right to enter the club premises;  
3561 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,

3562 C, or D private club licensee; and

3563 (ii) evidence that the private club meets the requirements for the classification for  
3564 which the club is applying;

3565 (n) in the case of a partnership, corporation, or limited liability company applicant,  
3566 proper verification evidencing that the person or persons signing the private club application  
3567 are authorized to so act on behalf of the partnership, corporation, or limited liability company;  
3568 and

3569 (o) any other information the commission or department may require.

3570 (2) (a) The commission may refuse to issue a license if the commission determines that  
3571 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

3572 (i) reasonable; and

3573 (ii) consistent with:

3574 (A) the declared nature and purpose of the applicant; and

3575 (B) the purposes of this chapter.

3576 (b) Club bylaws or house rules shall include provisions respecting the following:

3577 (i) standards of eligibility for members;

3578 (ii) limitation of members, consistent with the nature and purpose of the private club;

3579 (iii) the period for which dues are paid, and the date upon which the period expires;

3580 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3581 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor

3582 cards.

3583 (3) (a) All private club licenses expire on June 30 of each year.

3584 (b) A person desiring to renew that person's private club license shall submit by no later  
3585 than May 31:

3586 (i) a completed renewal application to the department; and

3587 (ii) a renewal fee in the following amount:

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

3593 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
3594 the license effective on the date the existing license expires.

3595 (d) A renewal application shall be in a form as prescribed by the department.

3596 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may  
3597 suspend or revoke any private club license if the private club licensee does not immediately  
3598 notify the department of any change in:

3599 (a) ownership of the club;

3600 (b) for a corporate owner, the:

3601 (i) corporate officers or directors; or

3602 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
3603 corporation; or

3604 (c) for a limited liability company:

3605 (i) managers; or

3606 (ii) members owning at least 20% of the limited liability company.

3607 Section 35. Section **32A-9-103** is amended to read:

3608 **32A-9-103. Qualifications.**

3609 (1) (a) The commission may not grant a warehousing license to any person who has  
3610 been convicted of:

3611 (i) a felony under any federal or state law;

3612 (ii) any federal or state law or local ordinance concerning the sale, manufacture,  
3613 distribution, warehousing, adulteration, or transportation of alcoholic beverages;

3614 (iii) any crime involving moral turpitude; or

3615 (iv) on two or more occasions within the five years before the day on which the license  
3616 is granted, driving under the influence of alcohol, any drug, or the combined influence of  
3617 alcohol and any drug.

3618 (b) In the case of a partnership, corporation, or limited liability company the  
3619 proscription under Subsection (1)(a) applies if any of the following has been convicted of any  
3620 offense described in Subsection (1)(a):

3621 (i) a partner;

3622 (ii) a managing agent;

3623 (iii) a manager;

3624 (iv) an officer;  
3625 (v) a director;  
3626 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
3627 the applicant corporation; or  
3628 (vii) a member who owns at least 20% of the applicant limited liability company.  
3629 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a  
3630 supervisory or managerial capacity for the warehouse has been convicted of any offense  
3631 described in Subsection (1)(a).  
3632 (2) The commission may immediately suspend or revoke a warehousing license if after  
3633 the day on which the warehousing license is granted, a person described in Subsection (1)(a),  
3634 (b), or (c):  
3635 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior  
3636 to the license being granted; or  
3637 (b) on or after the day on which the license is granted:  
3638 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or  
3639 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the  
3640 combined influence of alcohol and any drug; and  
3641 (B) was convicted of driving under the influence of alcohol, any drug, or the combined  
3642 influence of alcohol and any drug within five years before the day on which the person is  
3643 convicted of the offense described in Subsection (2)(b)(ii)(A).  
3644 (3) The director may take emergency action by immediately suspending the operation  
3645 of the warehousing license according to the procedures and requirements of Title 63G, Chapter  
3646 4, Administrative Procedures Act, for the period during which the criminal matter is being  
3647 adjudicated if a person described in Subsection (1)(a), (b), or (c):  
3648 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);  
3649 or  
3650 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,  
3651 any drug, or the combined influence of alcohol and any drug; and  
3652 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined  
3653 influence of alcohol and any drug within five years before the day on which the person is  
3654 arrested on a charge described in Subsection (3)(b)(i).

3655 (4) (a) (i) The commission may not grant a warehousing license to any person who has  
3656 had any type of license, agency, or permit issued under this title revoked within the last three  
3657 years.

3658 (ii) The commission may not grant a warehousing license to an applicant that is a  
3659 partnership, corporation, or limited liability company if any partner, managing agent, manager,  
3660 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock  
3661 of an applicant corporation, or member who owns at least 20% of an applicant limited liability  
3662 company is or was:

3663 (A) a partner or managing agent of any partnership that had any type of license, agency,  
3664 or permit issued under this title revoked within the last three years;

3665 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
3666 of the total issued and outstanding stock of any corporation that had any type of license,  
3667 agency, or permit issued under this title revoked within the last three years; or

3668 (C) a manager or member who owns or owned at least 20% of any limited liability  
3669 company that had any type of license, agency, or permit issued under this title revoked within  
3670 the last three years.

3671 (b) An applicant that is a partnership, corporation, or limited liability company may not  
3672 be granted a warehousing license if any of the following had any type of license, agency, or  
3673 permit issued under this title revoked while acting in that person's individual capacity within  
3674 the last three years:

3675 (i) any partner or managing agent of the applicant partnership;

3676 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the  
3677 total issued and outstanding stock of the applicant corporation; or

3678 (iii) any manager or member who owns at least 20% of the applicant limited liability  
3679 company.

3680 (c) A person acting in an individual capacity may not be granted a warehousing license  
3681 if that person was:

3682 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
3683 permit issued under this title revoked within the last three years;

3684 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
3685 total issued and outstanding stock of a corporation that had any type of license, agency, or

3686 permit issued under this title revoked within the last three years; or

3687 (iii) any manager or member who owned at least 20% of a limited liability company  
3688 that had any type of license, agency, or permit issued under this title revoked within the last  
3689 three years.

3690 (5) (a) A minor may not be:

3691 (i) granted a warehousing license; or

3692 (ii) employed by a warehouse to handle liquor.

3693 (b) The commission may not grant a warehousing license to an applicant that is a

3694 partnership, corporation, or limited liability company if any of the following is a minor:

3695 (i) a partner or managing agent of the applicant partnership;

3696 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
3697 total issued and outstanding stock of the applicant corporation; or

3698 (iii) a manager or member who owns at least 20% of the applicant limited liability  
3699 company.

3700 (6) A person, through any officer, director, representative, agent, or employee, or  
3701 otherwise, either directly or indirectly, may not hold at the same time both a warehousing  
3702 license and any other kind of license, agency, or permit issued under Title 32A, Chapter 3, 4,  
3703 4a, 5, 6, or 7, or Chapter 10, Part 2.

3704 (7) If any person to whom a license has been issued under this chapter no longer  
3705 possesses the qualifications required by this title for obtaining that license, the commission  
3706 may suspend or revoke that license.

3707 Section 36. Section **32A-10-202** is amended to read:

3708 **32A-10-202. Application and renewal requirements.**

3709 (1) A person seeking an on-premise beer retailer license under this chapter shall file a  
3710 written application with the department, in a form prescribed by the department. The  
3711 application shall be accompanied by:

3712 (a) a nonrefundable \$250 application fee;

3713 (b) an initial license fee that is refundable if a license is not granted in the following  
3714 amount:

3715 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial  
3716 license fee is \$150; or



- 3717 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is  
3718 \$1,250;
- 3719 (c) written consent of the local authority or a license to sell beer at retail for on-premise  
3720 consumption granted by the local authority under Section 32A-10-101;
- 3721 (d) a copy of the applicant's current business license;
- 3722 (e) evidence of proximity to any community location, with proximity requirements  
3723 being governed by Section 32A-10-201;
- 3724 (f) a bond as specified by Section 32A-10-205;
- 3725 (g) a floor plan of the premises, including consumption areas and the area where the  
3726 applicant proposes to keep, store, and sell beer;
- 3727 (h) evidence that the on-premise beer retailer licensee is carrying public liability  
3728 insurance in an amount and form satisfactory to the department;
- 3729 (i) for a licensee that sells more than \$5,000 of beer annually, evidence that the  
3730 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least  
3731 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;
- 3732 (j) a signed consent form stating that the on-premise beer retailer licensee will permit  
3733 any authorized representative of the commission, department, or any peace officer unrestricted  
3734 right to enter the licensee premises;
- 3735 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
3736 company, proper verification evidencing that the person or persons signing the on-premise beer  
3737 retailer licensee application are authorized to so act on the behalf of the partnership,  
3738 corporation, or limited liability company; and
- 3739 (l) any other information the department may require.
- 3740 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each  
3741 year.
- 3742 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the  
3743 person's on-premise beer retailer license shall submit by no later than January 31:
- 3744 (A) a completed renewal application to the department; and
- 3745 (B) a renewal fee in the following amount:
- 3746 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee  
3747 is \$200; or

3748 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is  
3749 \$1,000.

3750 (ii) A licensee is not required to submit a renewal fee if the licensee is:

3751 (A) a state agency; or

3752 (B) a political subdivision of the state including:

3753 (I) a county; or

3754 (II) a municipality.

3755 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
3756 the license, effective on the date the existing license expires.

3757 (d) A renewal statement shall be in a form as prescribed by the department.

3758 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may  
3759 suspend or revoke a beer retailer license if a beer retailer licensee does not immediately notify  
3760 the department of any change in:

3761 (a) ownership of the beer retailer;

3762 (b) for a corporate owner, the:

3763 (i) corporate officers or directors; and

3764 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
3765 corporation; or

3766 (c) for a limited liability company:

3767 (i) managers; or

3768 (ii) members owning at least 20% of the limited liability company.

3769 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and  
3770 (f) if the applicant is:

3771 (a) a state agency; or

3772 (b) a political subdivision of the state including:

3773 (i) a county; or

3774 (ii) a municipality.

3775 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer  
3776 license is required for each building or resort facility owned or leased by the same applicant.

3777 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each  
3778 retail beer dispensing outlet located in the same building or on the same resort premises owned

3779 or operated by the same applicant.

3780 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets  
3781 in the building or resort facility operate in the same manner.

3782 (ii) If the condition described in Subsection (5)(c)(i) is not met:

3783 (A) one state on-premise beer retailer tavern license is required for all outlets in the  
3784 same building or on the same resort premises that operate as a tavern; and

3785 (B) one state on-premise beer retailer license is required for all outlets in the same  
3786 building or on the same resort premises that do not operate as a tavern.

3787 Section 37. Section **32A-12-101** is amended to read:

3788 **32A-12-101. Applicability of Utah Criminal Code.**

3789 Except as otherwise provided, Title 76, Chapters 1, 2, 3, and 4~~[, the Utah Criminal~~  
3790 ~~Code, relating to principles of construction, jurisdiction, venue, limitations of actions, multiple~~  
3791 ~~prosecutions, double jeopardy, burdens of proof, definitions, principles of criminal~~  
3792 ~~responsibility, punishments, and inchoate offenses apply to any criminal offense defined in this~~  
3793 ~~title, except as otherwise provided]~~ apply to the prosecution of a criminal offense defined in  
3794 this chapter or expressly identified as a criminal offense in this title.

3795 Section 38. Section **32A-12-102** is amended to read:

3796 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**

3797 (1) In ~~[any]~~ a prosecution of an offense defined in this title or in ~~[any]~~ a proceeding  
3798 brought to enforce this title:

3799 (a) it is not necessary that the state or commission establish:

3800 (i) the precise description or quantity of ~~[the]~~ an alcoholic ~~[beverages]~~ beverage or  
3801 alcoholic product; or [products or]

3802 (ii) the precise consideration, if any, given or received for ~~[the]~~ an alcoholic ~~[beverages~~  
3803 ~~or products]~~ beverage or alcoholic product;

3804 (b) there is an inference, absent proof to the contrary, that ~~[the]~~ an alcoholic beverage  
3805 or alcoholic product in question is an alcoholic beverage or alcoholic product if the witness  
3806 describes it:

3807 (i) as an alcoholic beverage or alcoholic product;

3808 (ii) by a name that is commonly applied to an alcoholic beverage or alcoholic product;

3809 or

3810 (iii) as intoxicating;

3811 (c) if it is alleged that an association or corporation has violated this title, the fact of the

3812 incorporation of the association or corporation is presumed absent proof to the contrary;

3813 (d) a certificate or report signed or purporting to be signed by any state chemist,

3814 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of

3815 ~~[any]~~ an alcoholic beverage or alcoholic product is:

3816 (i) prima facie evidence:

3817 (A) of the facts stated in that certificate or report; and

3818 (B) of the authority of the person giving or making the report; and

3819 (ii) admissible in evidence without any proof of appointment or signature absent proof

3820 to the contrary; and

3821 (e) a copy of entries made in the records of the United States internal revenue collector,

3822 certified by the collector or a qualified notary public, showing the payment of the United States

3823 internal revenue special tax for the manufacture or sale of an alcoholic ~~[beverages or products]~~

3824 beverage or alcoholic product is prima facie evidence of the manufacture or sale by the party

3825 named in the entry within the period set forth in the record.

3826 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,

3827 or consumption of an alcoholic ~~[beverages or products]~~ beverage or alcoholic product, it is not

3828 necessary that the state or commission establish that any money or other consideration actually

3829 passed or that an alcoholic beverage or alcoholic product was actually consumed if the court or

3830 trier of fact is satisfied that:

3831 (i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or

3832 (ii) ~~[any]~~ consumption of an alcoholic ~~[beverages or products]~~ beverage or alcoholic

3833 product was about to occur.

3834 (b) Proof of consumption or intended consumption of an alcoholic beverage or

3835 alcoholic product on premises on which consumption is prohibited, by some person not

3836 authorized to consume an alcoholic ~~[beverages or products]~~ beverage or alcoholic product on

3837 those premises, is evidence that an alcoholic beverage or alcoholic product was sold or given to

3838 or purchased by the person consuming, about to consume, or carrying away the alcoholic

3839 beverage or alcoholic product as against the occupant of the premises.

3840 (3) For purposes of a provision applicable under this chapter to a retail licensee or

3841 officer, manager, employee, or agent of the retail licensee, the provision is applicable to a resort  
 3842 licensee or a person operating under a sublicense of the resort licensee.

3843 Section 39. Section **32A-12-104** is amended to read:

3844 **32A-12-104. Violation of title a misdemeanor.**

3845 [~~Any person who violates this title~~]

3846 (1) Unless otherwise provided in this title, a person is guilty of a class B  
 3847 misdemeanor[~~, unless otherwise provided in this title:~~] if that person violates:

3848 (a) this chapter; or

3849 (b) a provision of this title that is expressly identified as a criminal offense.

3850 (2) This section is not applicable to an adjudicative proceeding under Section

3851 32A-1-119, but only:

3852 (a) makes a violation described in Subsection (1) a criminal offense; and

3853 (b) establishes a penalty for a violation described in Subsection (1) that is prosecuted  
 3854 criminally.

3855 Section 40. Section **32A-12-213** is amended to read:

3856 **32A-12-213. Unlawful bringing onto premises for consumption.**

3857 (1) Except as provided in Subsection (3), a person may not bring for on-premise  
 3858 consumption [~~any~~] an alcoholic beverage onto the premises of [~~any~~]:

3859 (a) a licensed or unlicensed restaurant;

3860 (b) a licensed or unlicensed private club;

3861 (c) an airport lounge licensee;

3862 (d) an on-premise banquet licensee;

3863 (e) an on-premise beer retailer licensee;

3864 (f) a resort license premises;

3865 (g) a sublicense premises of a resort licensee;

3866 [~~(f)~~] (h) an event where an alcoholic [~~beverages are~~] beverage is sold or served under a  
 3867 single event permit or temporary special event beer permit issued under this title; or

3868 [~~(g)~~] (i) any establishment open to the general public.

3869 (2) Except as provided in Subsection (3), [~~a licensed or unlicensed restaurant or private~~  
 3870 ~~club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or~~  
 3871 ~~holder of a single event permit or temporary special event beer permit issued under this title, or~~

3872 ~~its officers, managers, employees, or agents]~~ the following may not allow a person to bring  
3873 onto its premises [~~any~~] an alcoholic beverage for on-premise consumption or allow  
3874 consumption of [~~any such~~] an alcoholic beverage brought onto its premises in violation of this  
3875 section[-]:

- 3876 (a) a licensed or unlicensed restaurant;  
3877 (b) a licensed or unlicensed private club;  
3878 (c) an airport lounge licensee;  
3879 (d) an on-premise banquet licensee;  
3880 (e) a resort licensee in relationship to:  
3881 (i) the resort license premises; or  
3882 (ii) a sublicense premises;  
3883 (f) a person operating a sublicense of a resort license;  
3884 (g) an on-premise beer retailer licensee;  
3885 (h) a holder of a single event permit or temporary special event beer permit issued  
3886 under this title; or  
3887 (i) an officer, manager, employee, or agent of a person listed in Subsections (2)(a)  
3888 through (h).

3889 (3) (a) A person may bring bottled wine onto the premises of [~~any~~] a restaurant liquor  
3890 licensee, limited restaurant licensee, or private club licensee and consume the wine pursuant to  
3891 the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307(14), or  
3892 32A-5-107(31);

3893 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic  
3894 beverage on the limousine if:

- 3895 (i) the travel of the limousine begins and ends at:  
3896 (A) the residence of the passenger;  
3897 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or  
3898 (C) the temporary domicile of the passenger; and  
3899 (ii) the driver of the limousine is separated from the passengers by partition or other  
3900 means approved by the department;

3901 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic  
3902 beverage on the chartered bus:

3903 (i) (A) but may consume only during travel to a specified destination of the chartered  
3904 bus and not during travel back to the place where the travel begins; or

3905 (B) if the travel of the chartered bus begins and ends at:

3906 (I) the residence of the passenger;

3907 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3908 (III) the temporary domicile of the passenger; and

3909 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the  
3910 chartered bus to monitor consumption; ~~and~~

3911 (d) a person may bring onto any premises, have, and consume ~~[any]~~ an alcoholic  
3912 beverage at a privately hosted event that is not open to the general public~~[-]; and~~

3913 (e) a person may bring onto a sublicense premises an alcoholic beverage to the extent  
3914 permitted under Chapter 4a, Resort License Act.

3915 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of an alcoholic  
3916 ~~[beverages in limousines and chartered buses]~~ beverage in a limousine or chartered bus is not  
3917 allowed if the limousine or chartered bus drops off ~~[passengers at locations from which they~~  
3918 ~~depart in private vehicles]~~ a passenger at a location from which the passenger departs in a  
3919 private vehicle.

3920 Section 41. Section **32A-12-222** is amended to read:

3921 **32A-12-222. Unlawful dispensing.**

3922 (1) For purposes of this section:

3923 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

3924 (b) "primary spirituous liquor" does not include a secondary alcoholic product used as  
3925 a flavoring in conjunction with the primary distilled spirit in the beverage.

3926 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous  
3927 liquor for consumption on the licensed premises, or an officer, manager, employee, or agent of  
3928 the licensee may not:

3929 (a) sell, serve, dispense, or otherwise furnish a primary spirituous liquor to a person on  
3930 the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage  
3931 dispensed through a calibrated metered dispensing system approved by the department;

3932 (b) sell, serve, dispense, or otherwise furnish more than a total of 2.5 ounces of  
3933 spirituous liquor per beverage;

- 3934 (c) allow ~~[any]~~ a person on the licensed premises to have more than a total of 2.5  
 3935 ounces of spirituous liquor at a time;
- 3936 (d) allow ~~[any]~~ a person on the premises of the following to have more than one  
 3937 spirituous liquor beverage at a time:
- 3938 (i) a restaurant liquor licensee;
- 3939 (ii) an on-premise banquet licensee; ~~[or]~~
- 3940 (iii) one of the following sublicenses of a resort license:
- 3941 (A) a restaurant sublicense;
- 3942 (B) a resort amenities sublicense; or
- 3943 (C) an on-premise banquet licensee; or
- 3944 ~~[(iii)]~~ (iv) a single event permittee; or
- 3945 (e) allow ~~[any]~~ a person to have more than two spirituous liquor beverages at a time in  
 3946 violation of:
- 3947 (i) Subsection 32A-4-206(2)(d); or
- 3948 (ii) Subsection 32A-5-107(20)(d).
- 3949 (3) A violation of this section is a class C misdemeanor.
- 3950 Section 42. Section **32A-12-301** is amended to read:
- 3951 **32A-12-301. Operating without a license or permit.**
- 3952 (1) (a) A person may not operate the following businesses without first obtaining a  
 3953 license under this title if the business allows a ~~[patron, customer, member, guest, visitor, or~~  
 3954 ~~other person]~~ person described in Subsection (1)(b) to purchase or consume an alcoholic  
 3955 beverage on the premises of the business:
- 3956 ~~[(a)]~~ (i) a restaurant;
- 3957 ~~[(b)]~~ (ii) an airport lounge;
- 3958 ~~[(c)]~~ (iii) a private club;
- 3959 (iv) a resort;
- 3960 ~~[(d)]~~ (v) an on-premise beer retailer outlet;
- 3961 ~~[(e)]~~ (vi) on-premise banquet premises; or
- 3962 ~~[(f)]~~ (vii) a business similar to one listed in Subsections (1)(a)(i) through ~~[(e)]~~ (vii).
- 3963 (b) Subsection (1)(a) applies if one of the following is allowed to purchase or consume  
 3964 an alcoholic beverage on the premises of the business:



- 3965            (i) a patron;  
3966            (ii) a customer;  
3967            (iii) a member;  
3968            (iv) a guest;  
3969            (v) a visitor;  
3970            (vi) a resident of a resort;  
3971            (vii) a holder of a customer card under Chapter 4a, Part 3, Resort Amenity Sublicense;

3972 or

- 3973            (viii) an invitee.

3974            (2) A person conducting an event or function that is open to the general public may not  
3975 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a person  
3976 attending the event or function without first obtaining a permit under this title.

3977            (3) A person conducting a privately hosted event or private social function may not  
3978 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the  
3979 privately hosted event or private social function without first obtaining a permit under this title.

3980            (4) A person may not operate the following businesses without first obtaining a license  
3981 under this title:

- 3982            (a) a winery manufacturer;  
3983            (b) a distillery manufacturer;  
3984            (c) a brewery manufacturer;  
3985            (d) a local industry representative of:  
3986            (i) a manufacturer of an alcoholic beverage;  
3987            (ii) a supplier of an alcoholic beverage; or  
3988            (iii) an importer of an alcoholic beverage;  
3989            (e) a liquor warehouse; or  
3990            (f) a beer wholesaler.

3991            (5) A person may not operate a public conveyance in this state without first obtaining a  
3992 public service permit under this title if that public conveyance allows a person to purchase or  
3993 consume an alcoholic beverage or alcoholic product:

- 3994            (a) on the public conveyance; or  
3995            (b) on the premises of a hospitality room located with a depot, terminal, or similar

3996 facility at which a service is provided to a patron of the public conveyance.

3997 Section 43. Section **32A-14a-102** is amended to read:

3998 **32A-14a-102. Liability for injuries and damage resulting from distribution of**  
3999 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

4000 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection  
4001 (1)(b) is liable for:

4002 (i) any and all injury and damage, except punitive damages to:

4003 (A) any third person; or

4004 (B) the heir, as defined in Section 78B-3-105, of that third person; or

4005 (ii) for the death of a third person.

4006 (b) A person is liable under Subsection (1)(a) if:

4007 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:

4008 (A) to a person described in Subsection (1)(b)(ii); and

4009 (B) as part of the commercial sale, storage, service, manufacture, distribution, or  
4010 consumption of alcoholic products;

4011 (ii) those actions cause the intoxication of:

4012 (A) any individual under the age of 21 years;

4013 (B) any individual who is apparently under the influence of intoxicating alcoholic  
4014 products or drugs;

4015 (C) any individual whom the person furnishing the alcoholic beverage knew or should  
4016 have known from the circumstances was under the influence of intoxicating alcoholic  
4017 beverages or products or drugs; or

4018 (D) any individual who is a known interdicted person; and

4019 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of  
4020 the individual who is provided the alcoholic beverage.

4021 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable  
4022 for:

4023 (i) any and all injury and damage, except punitive damages to:

4024 (A) any third person; or

4025 (B) the heir, as defined in Section 78B-3-105, of that third person; or

4026 (ii) for the death of the third person.

- 4027 (b) A person is liable under Subsection (2)(a) if:
- 4028 (i) that person directly gives or otherwise provides an alcoholic beverage to an  
4029 individual who the person knows or should have known is under the age of 21 years;
- 4030 (ii) those actions caused the intoxication of the individual provided the alcoholic  
4031 beverage;
- 4032 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of  
4033 the individual who is provided the alcoholic beverage; and
- 4034 (iv) the person is not liable under Subsection (1), because the person did not directly  
4035 give or provide the alcoholic beverage as part of the commercial sale, storage, service,  
4036 manufacture, distribution, or consumption of alcoholic products.
- 4037 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its  
4038 employees in violation of this chapter.
- 4039 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action  
4040 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).
- 4041 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities  
4042 provided by this chapter survive to or against that person's estate.
- 4043 (6) The total amount that may be awarded to any person pursuant to a cause of action  
4044 for injury and damage under this chapter that arises after [~~January 1, 1998~~] January 1, 2010, is  
4045 limited to [~~\$500,000~~] \$1,000,000 and the aggregate amount which may be awarded to all  
4046 persons injured as a result of one occurrence is limited to [~~\$1,000,000~~] \$2,000,000.
- 4047 (7) An action based upon a cause of action under this chapter shall be commenced  
4048 within two years after the date of the injury and damage.
- 4049 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery  
4050 against the person causing the injury.
- 4051 (b) Any cause of action or additional recovery against the person causing the injury and  
4052 damage, which action is not brought under this chapter, is exempt from the damage cap in  
4053 Subsection (6).
- 4054 (c) Any cause of action brought under this chapter is exempt from Sections 78B-5-817  
4055 through 78B-5-823.
- 4056 (9) This section does not apply to a business licensed under Chapter 10, Part 1, General  
4057 Provisions, to sell beer at retail only for off-premise consumption.

4058 Section 44. Section **32A-14a-103** is amended to read:

4059 **32A-14a-103. Employee protected in exercising judgment.**

4060 (1) An employer may not sanction or terminate the employment of an employee of a  
4061 restaurant, airport lounge, private club, resort, on-premise beer retailer, or any other  
4062 establishment serving an alcoholic [~~beverages~~] beverage as a result of the employee having  
4063 exercised the employee's independent judgment to refuse to sell an alcoholic [~~beverages~~]  
4064 beverage to [~~any~~] a person the employee considers to meet one or more of the conditions  
4065 described in Subsection 32A-14a-102(1).

4066 (2) [~~Any~~] An employer who terminates an employee or imposes sanctions on the  
4067 employee contrary to this section is considered to have discriminated against that employee and  
4068 is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah  
4069 Antidiscrimination Act.

4070 Section 45. **Study of penalties for violations related to minors.**

4071 (1) As used in this section:

4072 (a) "Commission" means the Alcoholic Beverage Commission created in Section  
4073 32A-1-106.

4074 (b) "Violation related to a minor" means a violation under Title 32A, Alcoholic  
4075 Beverage Control Act, that is, in whole or in part, based on a licensee, permittee, or an  
4076 employee or agent of the licensee or permittee:

4077 (i) selling, serving, or otherwise furnishing an alcoholic product to a minor;

4078 (ii) purchasing or otherwise obtaining an alcoholic product for a minor;

4079 (iii) permitting a minor to consume an alcoholic product;

4080 (iv) permitting a minor to gain admittance to an area into which a minor is not  
4081 permitted under Title 32A, Alcoholic Beverage Control Act; or

4082 (v) offering or providing employment to a minor that under Title 32A, Alcoholic  
4083 Beverage Control Act, may not be obtained by a minor.

4084 (2) (a) The commission shall review the penalties imposed by the commission for a  
4085 violation related to a minor beginning on January 1, 2005 and ending December 31, 2008.

4086 (b) The commission shall address in its review the following:

4087 (i) trends, if any, in the severity of the penalties;

4088 (ii) circumstances affecting the penalties imposed;

- 4089            (iii) the purpose and effectiveness of the penalties;
- 4090            (iv) other issues as determined by the commission; and
- 4091            (v) whether the commission should recommend legislative action related to the
- 4092 imposition of a penalty.
- 4093            (c) The commission shall report its findings and recommendations described in
- 4094 Subsection (2)(b) to the Business and Labor Interim Committee on or before the October 2009
- 4095 interim meeting.
- 4096            Section 46. **Effective date.**
- 4097            This bill takes effect on May 12, 2009 except the amendments in this bill to the
- 4098 following take effect on January 1, 2010:
- 4099            (1) Section 32A-4-102;
- 4100            (2) Section 32A-4-202;
- 4101            (3) Section 32A-4-303;
- 4102            (4) Section 32A-4-402;
- 4103            (5) Section 32A-5-102;
- 4104            (6) Section 32A-10-202; and
- 4105            (7) Section 32A-14a-102.

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**Legislative Review Note**  
as of 2-20-09 1:38 PM

**Office of Legislative Research and General Counsel**