

1 **ALCOHOLIC BEVERAGE CONTROL ACT RETAIL LICENSE**

2 **QUOTAS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gage Froerer**

6 Senate Sponsor: John L. Valentine

7

LONG TITLE

8 **General Description:**

9 This bill modifies the Alcoholic Beverage Control Act to provide for changes in the
10 number of retail licenses.
11

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the numerical restrictions on the number of retail licenses that may be
- 15 issued; and
- 16 ▶ makes technical and conforming amendments.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on July 1, 2011.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **32B-6-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

24 **32B-6-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

25 **32B-6-703 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

26

Be it enacted by the Legislature of the state of Utah:
27



28 Section 1. Section **32B-6-203 (Effective 07/01/11)** is amended to read:

29 **32B-6-203 (Effective 07/01/11). Commission's power to issue full-service**
30 **restaurant license.**

31 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
32 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a
33 full-service restaurant license from the commission in accordance with this part.

34 (2) The commission may issue a full-service restaurant license to establish full-service
35 restaurant licensed premises at places and in numbers the commission considers proper for the
36 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises
37 operated as a full-service restaurant.

38 (3) (a) The commission may not issue a total number of full-service restaurant licenses
39 that at any time exceeds the number determined by dividing the population of the state by
40 [~~5,200~~] 5,000.

41 (b) The commission may issue a seasonal full-service restaurant license in accordance
42 with Section 32B-5-206.

43 (c) (i) If the location, design, and construction of a hotel may require more than one
44 full-service restaurant sales location within the hotel to serve the public convenience, the
45 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as
46 many as three full-service restaurant locations within the hotel under one full-service restaurant
47 license if:

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

49 (B) the locations under the full-service restaurant license are:

50 (I) within the same hotel; and

51 (II) on premises that are managed or operated, and owned or leased, by the full-service
52 restaurant licensee.

53 (ii) A facility other than a hotel shall have a separate full-service restaurant license for
54 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

55 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
56 full-service restaurant license for premises that do not meet the proximity requirements of
57 Section 32B-1-202.

58 (b) With respect to the premises of a full-service restaurant license issued by the

59 commission that undergoes a change of ownership, the commission shall waive or vary the
60 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
61 full-service restaurant license to the new owner of the premises if:

62 (i) when a full-service restaurant license was issued to a previous owner, the premises
63 met the proximity requirements of Subsection 32B-1-202(2);

64 (ii) the premises has had a full-service restaurant license at all times since the
65 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
66 and

67 (iii) the community location was located within the proximity requirements of
68 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
69 Subsection (4)(b)(i) was issued.

70 Section 2. Section **32B-6-303 (Effective 07/01/11)** is amended to read:

71 **32B-6-303 (Effective 07/01/11). Commission's power to issue limited-service**
72 **restaurant license.**

73 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
74 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first
75 obtain a limited-service restaurant license from the commission in accordance with this part.

76 (2) (a) The commission may issue a limited-service restaurant license to establish
77 limited-service restaurant licensed premises at places and in numbers the commission considers
78 proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or
79 beer on premises operated as a limited-service restaurant.

80 (b) A person may not sell, offer for sale, furnish, or allow the consumption of the
81 following on the licensed premises of a limited-service restaurant licensee:

82 (i) spirituous liquor; or

83 (ii) a flavored malt beverage.

84 (3) (a) The commission may not issue a total number of limited-service restaurant
85 licenses that at any time exceeds the number determined by dividing the population of the state
86 by [~~9,300~~] 8,700.

87 (b) The commission may issue a seasonal limited-service restaurant license in
88 accordance with Section 32B-5-206.

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

90 limited-service restaurant sales location within the hotel to serve the public convenience, the
91 commission may authorize the sale of wine, heavy beer, and beer at as many as three
92 limited-service restaurant locations within the hotel under one limited-service restaurant license
93 if:

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

95 (B) the locations under the limited-service restaurant license are:

96 (I) within the same hotel; and

97 (II) on premises that are managed or operated, and owned or leased by the

98 limited-service restaurant licensee.

99 (ii) A facility other than a hotel shall have a separate limited-service restaurant license
100 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
101 furnished.

102 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
103 limited-service restaurant license for premises that do not meet the proximity requirements of
104 Section 32B-1-202.

105 (b) With respect to the premises of a limited-service restaurant license issued by the
106 commission that undergoes a change of ownership, the commission shall waive or vary the
107 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
108 limited-service restaurant license to the new owner of the premises if:

109 (i) when a limited-service restaurant license was issued to a previous owner, the
110 premises met the proximity requirements of Subsection 32B-1-202(2);

111 (ii) the premises has had a limited-service restaurant license at all times since the
112 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
113 variance; and

114 (iii) the community location was located within the proximity requirements of
115 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
116 described in Subsection (4)(b)(i) was issued.

117 Section 3. Section **32B-6-703 (Effective 07/01/11)** is amended to read:

118 **32B-6-703 (Effective 07/01/11). Commission's power to issue on-premise beer**
119 **retailer license.**

120 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of

121 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
122 beer retailer license from the commission in accordance with this part.

123 (2) (a) The commission may issue an on-premise beer retailer license to establish
124 on-premise beer retailer licensed premises at places and in numbers as the commission
125 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
126 premises operated as an on-premise beer retailer.

127 (b) At the time that the commission issues an on-premise beer retailer license, the
128 commission shall designate whether the on-premise beer retailer is a tavern.

129 (c) The commission may change its designation of whether an on-premise beer retailer
130 is a tavern in accordance with rules made by the commission.

131 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
132 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
133 beer for consumption on the establishment's premises.

134 (ii) In making a determination under this Subsection (2)(d), the commission shall
135 consider:

136 (A) whether the on-premise beer retailer will operate as one of the following:

137 (I) a beer bar;

138 (II) a parlor;

139 (III) a lounge;

140 (IV) a cabaret; or

141 (V) a nightclub;

142 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

143 (I) whether the on-premise beer retailer will sell food in the establishment; and

144 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
145 will exceed the revenue of the sale of food;

146 (C) whether full meals including appetizers, main courses, and desserts will be served;

147 (D) the square footage and seating capacity of the premises;

148 (E) what portion of the square footage and seating capacity will be used for a dining
149 area in comparison to the portion that will be used as a lounge or bar area;

150 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
151 full meals, except a person that is located on the premises of a hotel or resort facility may use

152 the culinary facilities of the hotel or resort facility;

153 (G) whether the entertainment provided on the premises of the beer retailer will be
154 suitable for minors; and

155 (H) the beer retailer management's ability to manage and operate an on-premise beer
156 retailer license including:

157 (I) management experience;

158 (II) past beer retailer management experience; and

159 (III) the type of management scheme that will be used by the beer retailer.

160 (3) (a) The commission may not issue a total number of on-premise beer retailer
161 licenses that at any time exceeds the number determined by dividing the
162 population of the state by [~~30,500~~] 53,400.

163 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
164 in accordance with Section 32B-5-206.

165 (4) (a) Unless otherwise provided in Subsection (4)(b):

166 (i) only one on-premise beer retailer license is required for each building or resort
167 facility owned or leased by the same person; and

168 (ii) a separate license is not required for each retail beer dispensing location in the
169 same building or on the same resort premises owned or operated by the same person.

170 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
171 building or resort facility operates in the same manner.

172 (ii) If each retail beer dispensing location does not operate in the same manner:

173 (A) one on-premise beer retailer license designated as a tavern is required for the
174 locations in the same building or on the same resort premises that operate as a tavern; and

175 (B) one on-premise beer retailer license is required for the locations in the same
176 building or on the same resort premises that do not operate as a tavern.

177 Section 4. **Effective date.**

178 This bill takes effect on July 1, 2011.

Legislative Review Note
as of 12-2-10 7:45 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 42, 2011 General Session

SHORT TITLE: Alcoholic Beverage Control Act Retail License Quotas

SPONSOR: Froerer, G.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

By increasing the number of full-service and limited-service restaurant licensees, enactment of this bill increases fee revenue to the Liquor Control Fund by \$60,700 in FY 2012 and \$61,600 in FY 2013. The new licensees also increase gross revenue to the Liquor Control Fund by \$423,600, of which \$89,000 would be transferred to the General Fund as liquor profits, 42,400 to the School Lunch program, and \$27,500 to the General Fund from sales tax. Additionally, the newly licensed restaurants increase sales tax revenue by \$49,300 in FY 2012 and \$51,100 in FY 2013.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$229,200	\$229,200
General Fund, One-Time	\$0	(\$2,700)	\$0
Dedicated Credits	\$0	\$42,400	\$42,400
Liquor Control Fund	\$0	\$264,700	\$264,700
Total Revenue	\$0	\$533,600	\$536,300
Expenditure			
	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$533,600	\$536,300
Net Impact, General/Education Funds	\$0	\$226,500	\$229,200

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments can expect an increase in sales tax revenue of \$28,800 in FY 2012 and \$30,600 in FY 2013.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

By increasing the number of licensees available to businesses, such businesses can expect to pay fees of \$60,700 in FY 2012 and \$61,600 in FY 2013.