

- 57 • addressing the commission's power to issue;
- 58 • addressing specific licensing requirements; and
- 59 • addressing specific operational requirements;
- 60 ▶ imposes additional requirements on on-premise beer retailers;
- 61 ▶ extends certain grandfathering for restaurant sublicenses;
- 62 ▶ prohibits event permittees from selling, offering for sale, or furnishing an indefinite
- 63 or unlimited number of alcoholic products during a set period for a fixed price
- 64 unless certain conditions are met;
- 65 ▶ clarifies provisions related to the number of drinks a patron may have before them
- 66 at an event;
- 67 ▶ requires agreements to create exclusive sales territories for beer wholesaler
- 68 licensees;
- 68a **Ŝ→ ▶ clarifies penalties related to obtaining a beer wholesaling license; ←Ŝ**
- 69 ▶ addresses when meetings of the commission may be closed;
- 70 ▶ **Ŝ→ [requires] addresses ←Ŝ alcohol training and education seminars Ŝ→ [to be taken in**
- 70a **person] ←Ŝ ;**
- 71 ▶ requires the governor to comply with certain requirements under the Budgetary
- 72 Procedures Act; and
- 73 ▶ makes technical and conforming amendments.

74 **Money Appropriated in this Bill:**

75 This bill appropriates:

- 76 ▶ to the Department of Public Safety - Programs and Operations, as **Ŝ→ [an] ←Ŝ** ongoing
- 77 **Ŝ→ [appropriation] and one time appropriations ←Ŝ :**
- 77a **Ŝ→ • from the General Fund, one time, \$83,600; and ←Ŝ**
- 78 • from the General Fund, **Ŝ→ ongoing, ←Ŝ (Ŝ→ [\$2,900,000] \$2,642,900 ←Ŝ).**

79 **Other Special Clauses:**

80 This bill provides an effective date.

81 **Utah Code Sections Affected:**

82 AMENDS:

- 83 **32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 84 **32B-1-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 85 **32B-1-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 86 **32B-1-407 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 87 **32B-1-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

150 32B-11-604 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

151 32B-11-605 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

152 32B-11-608 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

153 32B-12-202 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

154 32B-12-203 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

154a §→ 32B-13-201 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276 ←§

155 32B-13-202 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

156 32B-13-203 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

157 32B-13-301 (Effective 07/01/11), as enacted by Laws of Utah 2010, Chapter 276

158 52-4-205, as last amended by Laws of Utah 2010, Chapters 35, 60, and 239

159 62A-15-401 (Effective 07/01/11), as last amended by Laws of Utah 2010, Chapter 276

160 63J-1-201, as last amended by Laws of Utah 2010, Chapter 415

161 ENACTS:

162 32B-1-206, Utah Code Annotated 1953

163 32B-2-209, Utah Code Annotated 1953

164 32B-2-305, Utah Code Annotated 1953

165 32B-6-409, Utah Code Annotated 1953

166 32B-6-801, Utah Code Annotated 1953

167 32B-6-802, Utah Code Annotated 1953

168 32B-6-803, Utah Code Annotated 1953

169 32B-6-804, Utah Code Annotated 1953

170 32B-6-805, Utah Code Annotated 1953

171 32B-6-901, Utah Code Annotated 1953

172 32B-6-902, Utah Code Annotated 1953

173 32B-6-903, Utah Code Annotated 1953

174 32B-6-904, Utah Code Annotated 1953

175 32B-6-905, Utah Code Annotated 1953

176 32B-8a-101, Utah Code Annotated 1953

177 32B-8a-102, Utah Code Annotated 1953

178 32B-8a-201, Utah Code Annotated 1953

179 32B-8a-202, Utah Code Annotated 1953

180 32B-8a-203, Utah Code Annotated 1953

2723 (c) if the person is applying for an equity club license or fraternal club license, a copy
2724 of the club's bylaws or house rules, and an amendment to those records.

2725 (2) The commission may refuse to issue a club license to a person for an equity club
2726 license or fraternal club license if the commission determines that a provision of the person's
2727 bylaws or house rules, or amendments to those records is not:

2728 (a) reasonable; and

2729 (b) consistent with:

2730 (i) the declared nature and purpose of the club licensee; and

2731 (ii) the purposes of this part.

2732 (3) (a) A club license expires on June 30 of each year.

2733 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,
2734 Part 2, Retail Licensing Process, by no later than May 31.

2735 (4) (a) The nonrefundable application fee for a club license is [~~\$250~~] \$300.

2736 (b) The initial license fee for a club license is [~~\$2,500~~] \$2,750.

2737 (c) The renewal fee for a club license is [~~\$1,600~~] \$2,000.

2738 (5) The bond amount required for a ~~§~~→ [full-service restaurant] club ←~~§~~ license is the
2738a penal sum of
2739 \$10,000.

2740 Section 41. Section **32B-6-406 (Effective 07/01/11)** is amended to read:

2741 **32B-6-406 (Effective 07/01/11). Specific operational requirements for a club**
2742 **license.**

2743 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2744 Requirements, a club licensee and staff of the club licensee shall comply with this section.

2745 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2746 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2747 (i) a club licensee;

2748 (ii) individual staff of a club licensee; or

2749 (iii) both a club licensee and staff of the club licensee.

2750 (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall
2751 display in a prominent place in the club licensed premises a list of the types and brand names of
2752 liquor being furnished through the club licensee's calibrated metered dispensing system.

2753 (3) (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain

4211 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
 4212 consumption of an alcoholic product purchased for an event in a location other than that
 4213 described in the application and designated on the event permit unless the event permittee first
 4214 applies for and receives approval from the commission for a change of location.

4215 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
 4216 furnish beer for on-premise consumption:

4217 (i) in an open original [~~package~~] container; and

4218 (ii) in a [~~package~~] container on draft.

4219 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
 4220 Subsection (8)(a):

4221 (i) in a size of [~~package~~] container that exceeds two liters; or

4222 (ii) to an individual patron in a size of [~~package~~] container that exceeds one liter.

4223 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
 4224 than the cost of the alcoholic product to the event permittee.

4225 (b) An event permittee may not sell an alcoholic product at a discount price on any date
 4226 or at any time.

4227 [~~(b)~~] (c) An event permittee may not sell or offer for sale an alcoholic product at a price
 4228 that encourages over consumption or intoxication.

4229 [~~(c)~~] (d) An event permittee may not sell or offer for sale an alcoholic product at a
 4230 special or reduced price for only certain hours of the day of an event.

4231 [~~(d)~~] (e) An event permittee may not sell, offer for sale, or furnish more than one
 4232 alcoholic product at the price of a single alcoholic product.

4233 (f) An event permittee, or a person operating, selling, offering, or furnishing an
 4234 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
 4235 unlimited number of alcoholic products during a set period for a fixed price, unless:

4236 (i) the alcoholic product is served to a patron ~~H~~→ [who is seated] at a seated event ←~~H~~ ;

4237 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
 4238 furnished; and

4239 (iii) no person advertises that at the event a person may be sold or furnished an
 4240 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

4241 [~~(e)~~] (g) An event permittee may not engage in a public promotion involving or

4924 To obtain a liquor warehousing license, a person shall submit to the department:

4925 (1) a written application in a form prescribed by the department;

4926 (2) a nonrefundable [~~\$250~~] \$300 application fee;

4927 (3) an initial license fee of [~~\$750~~] \$850, which is refundable if a liquor warehousing

4928 license is not issued;

4929 (4) written consent of the local authority;

4930 (5) a copy of the person's current business license;

4931 (6) a bond as specified by Section 32B-12-206;

4932 (7) a floor plan of the person's warehouse, including the area in which the person
4933 proposes that liquor be stored;

4934 (8) evidence that the person is carrying public liability insurance in an amount and
4935 form satisfactory to the department;

4936 (9) a signed consent form stating that the liquor warehousing licensee will permit any
4937 authorized representative of the commission, department, or any law enforcement officer to
4938 have unrestricted right to enter the licensed premises;

4939 (10) if the person is an entity, proper verification evidencing that a person who signs
4940 the application is authorized to sign on behalf of the entity; and

4941 (11) any other information the commission or department may require.

4942 Section 100. Section **32B-12-203 (Effective 07/01/11)** is amended to read:

4943 **32B-12-203 (Effective 07/01/11). Renewal requirements for liquor warehousing**
4944 **license.**

4945 (1) A liquor warehousing license expires on December 31 of each year.

4946 (2) To renew a liquor warehousing license, a person shall submit to the department by
4947 no later than November 30 of the year the license expires:

4948 (a) a completed renewal application in a form prescribed by the department; and

4949 (b) a renewal fee of [~~\$1,000~~] \$1,200.

4950 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
4951 liquor warehousing license effective on the date the existing liquor warehousing license
4952 expires.

4952a **§→ Section 101. Section 32B-13-201 is amended to read:**

4952b **32B-13-201 (Effective 07/01/11). Commission's power to issue beer wholesaling license.**

4952c (1) **(a) Before a person may purchase, store, sell, offer for sale, distribute, or import ←§**

4952d **§→** beer to a person who sells at retail or acts in any way as a beer wholesaler, the person shall
 4952e first obtain a beer wholesaling license issued by the commission in accordance with this
 4952f chapter.

4952g (b) A violation of Subsection (1)(a) is a class A misdemeanor.

4952h (2) (a) The commission may issue a beer wholesaling license for the purchase, storage,
 4952i sale, distribution, transportation, and import of beer.

4952j (b) A beer wholesaling license entitles the beer wholesaler licensee to:

4952k (i) purchase and import beer into the state;

4952l (ii) store beer in an approved warehouse; and

4952m (iii) sell and distribute beer directly to:

4952n (A) a beer retailer; or

4952o (B) an event permittee.

4952p [~~——(c) A violation of Subsection (2)(a) is a class A misdemeanor.~~]

4952q (3) Nothing in this section precludes a small brewer from selling beer the small brewer
 4952r manufactures directly to:

4952s (a) a retail licensee; (b) an off-premise beer retailer; or

4952t (c) an event permittee. ←**§**

4953 Section **§→** [101] 102 ←**§** . Section 32B-13-202 (Effective 07/01/11) is amended to read:

4954 32B-13-202 (Effective 07/01/11). Application requirements for beer wholesaling

5110 **62A-15-401 (Effective 07/01/11). Alcohol training and education seminar.**

5111 (1) As used in this part:

5112 (a) "Instructor" means a person that directly provides the instruction during an alcohol
5113 training and education seminar for a seminar provider.

5114 (b) "Licensee" means a person who is:

5115 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

5116 and

5117 (B) engaged in the retail sale of an alcoholic product for consumption on the premises

5118 of the licensee; or

5119 (ii) a business that is:

5120 (A) a new or renewing licensee licensed by a city, town, or county; and

5121 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

5122 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

5123 (d) "Seminar provider" means a person other than the division who provides an alcohol

5124 training and education seminar meeting the requirements of this section.

5125 (2) (a) This section applies to an individual who, as defined by the ~~§~~→ [board] division ←~~§~~
5125a by rule:

5126 (i) manages operations at the premises of a licensee engaged in the retail sale of an
5127 alcoholic product for consumption on the premises of the licensee;

5128 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
5129 premises of a licensee;

5130 (iii) serves an alcoholic product to a customer for consumption on the premises of a
5131 licensee;

5132 (iv) directly supervises the sale of beer to a customer for consumption off the premises
5133 of an off-premise beer retailer; or

5134 (v) sells beer to a customer for consumption off the premises of an off-premise beer
5135 retailer.

5136 (b) If the individual does not have a valid record that the individual has completed an
5137 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

5138 (i) (A) complete an alcohol training and education seminar within 30 days of the

5139 following if the individual is described in Subsections (2)(a)(i) through (iii):

5140 (I) if the individual is an employee, the day the individual begins employment;

5141 (II) if the individual is an independent contractor, the day the individual is first hired;

5142 or

5143 (III) if the individual holds an ownership interest in the licensee, the day that the
5144 individual first engages in an activity that would result in that individual being required to

5145 complete an alcohol training and education seminar; or

5146 (B) complete an alcohol training and education seminar within the time periods
5147 specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv)
5148 and (v); and

5149 (ii) pay a fee:

5150 (A) to the seminar provider; and

5151 (B) that is equal to or greater than the amount established under Subsection (4)(h).

5152 (c) An individual shall have a valid record that the individual completed an alcohol
5153 training and education seminar within the time period provided in this Subsection (2) to engage
5154 in an activity described in Subsection (2)(a).

5155 (d) A record that an individual has completed an alcohol training and education
5156 seminar is valid for:

5157 (i) three years from the day on which the record is issued for an individual described in
5158 Subsection (2)(a)(i), (ii), or (iii); and

5159 (ii) five years from the day on which the record is issued for an individual described in
5160 Subsection (2)(a)(iv) or (v).

5161 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
5162 and education seminar, an individual shall:

5163 (i) attend the alcohol training and education seminar and take any test required to
5164 demonstrate completion of the alcohol training and education seminar in the physical presence
5165 of an instructor of the seminar provider; or

5166 (ii) complete the alcohol training and education seminar and take any test required to
5167 demonstrate completion of the alcohol training and education seminar through an online course
5168 or testing program that meets the requirements described in Subsection (2)(f).

5169 (f) The ~~§~~ [board] division ~~←~~§ shall by rule made in accordance with Title 63G, Chapter
5169a 3, Utah

5170 Administrative Rulemaking Act, establish one or more requirements for an online course or
5171 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of

5172 the online course or testing program. In developing the requirements by rule the ~~§~~ → [board]
5172a division ←~~§~~ shall
5173 consider whether to require:
5174 (i) authentication that the an individual accurately identifies the individual as taking the
5175 online course or test;
5176 (ii) measures to ensure that an individual taking the online course or test is focused on
5177 training material throughout the entire training period;
5178 (iii) measures to track the actual time an individual taking the online course or test is
5179 actively engaged online;
5180 (iv) a seminar provider to provide technical support, such as requiring a telephone
5181 number, email, or other method of communication that allows an individual taking the online
5182 course or test to receive assistance if the individual is unable to participate online because of
5183 technical difficulties;
5184 (v) a test to meet quality standards, including randomization of test questions and
5185 maximum time limits to take a test;
5186 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
5187 course or test, such as requiring a distinct online certificate with information printed on the
5188 certificate that identifies the person taking the online course or test, or requiring measures to
5189 inhibit duplication of a certificate;
5190 (vii) measures for the ~~§~~ → [board] division ←~~§~~ to audit online courses or tests;
5191 (viii) measures to allow an individual taking an online course or test to provide an
5192 evaluation of the online course or test;
5193 (ix) a seminar provider to track the Internet protocol address or similar electronic
5194 location of an individual who takes an online course or test;
5195 (x) an individual who takes an online course or test to use of an e-signature; or
5196 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
5197 certificate does not accurately reflect the individual who took the online course or test.
5198 (3) (a) A licensee may not permit an individual who is not in compliance with
5199 Subsection (2) to:
5200 (i) serve or supervise the serving of an alcoholic product to a customer for
5201 consumption on the premises of the licensee;
5202 (ii) engage in any activity that would constitute managing operations at the premises of

5234 seminar provider certified by the division; and

5235 (h) establish a fee amount for each person attending an alcohol training and education
5236 seminar that is sufficient to offset the division's cost of administering this section.

5237 (5) The ~~§~~ **[board] division** ~~←§~~ shall by rule made in accordance with Title 63G, Chapter
5237a 3, Utah

5238 Administrative Rulemaking Act:

5239 (a) define what constitutes under this section an individual who:

5240 (i) manages operations at the premises of a licensee engaged in the retail sale of an
5241 alcoholic product for consumption on the premises of the licensee;

5242 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
5243 premises of a licensee;

5244 (iii) serves an alcoholic product to a customer for consumption on the premises of a
5245 licensee;

5246 (iv) directly supervises the sale of beer to a customer for consumption off the premises
5247 of an off-premise beer retailer; or

5248 (v) sells beer to a customer for consumption off the premises of an off-premise beer
5249 retailer;

5250 (b) establish criteria for certifying and recertifying a seminar provider; and

5251 (c) establish guidelines for the manner in which an instructor provides an alcohol
5252 education and training seminar.

5253 (6) A seminar provider shall:

5254 (a) obtain recertification by the division every three years;

5255 (b) ensure that an instructor used by the seminar provider:

5256 (i) follows the curriculum established under this section; and

5257 (ii) conducts an alcohol training and education seminar in accordance with the
5258 guidelines established by rule;

5259 (c) ensure that any information provided by the seminar provider or instructor of a
5260 seminar provider is consistent with:

5261 (i) the curriculum established under this section; and

5262 (ii) this section;

5263 (d) provide the division with the names of all persons who complete an alcohol training
5264 and education seminar provided by the seminar provider;

5451 (A) shall be deposited into the fund established by Section 31A-29-120; and
 5452 (B) are restricted and are to be used to maintain the operation, administration, and
 5453 management of the Utah Comprehensive Health Insurance Pool created by Section
 5454 31A-29-104.

5455 (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity
 5456 does not affect the budget itself or any other item in it.

5457 Section 107. **Repealer.**

5458 This bill repeals:

5459 Section **26-7-6 (Effective 07/01/11), Alcohol retailers to post warnings related to**
 5460 **consumption of alcohol and pregnancy.**

5461 Section **32B-4-506 (Effective 07/01/11), Conflicting interests.**

5462 Section **32B-4-507 (Effective 07/01/11), Interfering with manufacturer, supplier, or**
 5463 **importer.**

5464 Section 108. **Appropriation.**

5465 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 5466 following sums of money are appropriated from resources not otherwise appropriated out of the
 5467 funds or accounts indicated for the fiscal year beginning July 1, 2011, and ending June 30,
 5468 2012. These are additions to amounts previously appropriated for fiscal year 2012.

5469 To Department of Public Safety - Programs and Operations

5469a	Ⓢ→	<u>From General Fund, one-time</u>	<u>\$83,600 ←Ⓢ</u>
5470		<u>From General Fund</u>	<u>(Ⓢ→ [\$2,900,000] <u>\$2,642,900 ←Ⓢ</u>)</u>

5471 Schedule of Programs:

5472		<u>Highway Patrol -- Special Services</u>	<u>(Ⓢ→ [\$2,900,000] <u>\$2,559,300 ←Ⓢ</u>)</u>
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5473 Section 109. **Effective date.**

5474 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

5475 (2) (a) The repeal of Subsection 32B-6-603(4) (Effective 07/01/11) in this bill takes
 5476 effect on November 1, 2011.

5477 (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes
 5478 effect on November 1, 2011.

5479 (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill
 5480 takes effect on March 1, 2012.

5481 (d) The following take effect on July 1, 2012: