

**ALCOHOLIC BEVERAGE LICENSING**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act and related provisions to address various issues concerning the regulation of alcoholic products.

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions;
- ▶ provides that certain retail licenses are exempt from limitations on the number of retail licenses that may be issued at any time;
- ▶ addresses the relationship between the number of alcohol-related enforcement officers and the issuance of licenses;
- ▶ modifies the calculation of the ratio of revenue from food as compared to revenue from alcoholic products;
- ▶ requires taverns to comply with electronic verification requirements for proof of age;
- ▶ provides for the governor to appoint the chair of the Alcoholic Beverage Control Commission;
- ▶ provides for the issuance of certificates of approval for out-of-state importers and suppliers of beer, heavy beer, and flavored malt beverages;
- ▶ provides for the commission with the approval of the governor and with the consent of the Senate to appoint the director of the Department of Alcoholic Beverage



- 28 Control;
- 29 ▶ addresses prohibited interests, relationships, and actions;
- 30 ▶ creates the Alcoholic Beverage Control Act Enforcement Fund and directs how
- 31 money in the fund is to be expended;
- 32 ▶ consolidates language regarding warning signs required to be posted in retail
- 33 settings, including event permits;
- 34 ▶ addresses the size of containers of heavy beer that can be sold;
- 35 ▶ modifies fees;
- 36 ▶ permits the sale, offer for sale, or furnishing of an alcoholic product by room service
- 37 in other than a sealed container;
- 38 ▶ prohibits consumption of an alcoholic product on licensed premises after 2 a.m.;
- 39 ▶ removes existing restrictions on transferring licenses or locations of licenses and
- 40 replaces the provisions with the Transfer of Retail License Act;
- 41 ▶ changes the numbers used to determine the number of retail licenses that may be
- 42 issued at any one time;
- 43 ▶ modifies requirements related to the location in restaurants of dispensing, storage,
- 44 and related instruments or equipment;
- 45 ▶ modifies provisions related to dining club licenses;
- 46 ▶ modifies hours of sale;
- 47 ▶ addresses the limit on the number of airport lounge licenses;
- 48 ▶ eliminates outdated language regarding grandfathered facilities for on-premise
- 49 banquet licenses;
- 50 ▶ enacts a new reception center license, including:
- 51 • addressing the commission's power to issue;
- 52 • addressing specific licensing requirements; and
- 53 • addressing specific operational requirements;
- 54 ▶ enacts a new beer-only restaurant license, including:
- 55 • addressing the commission's power to issue;
- 56 • addressing specific licensing requirements; and
- 57 • addressing specific operational requirements;
- 58 ▶ extends certain grandfathering for restaurant sublicenses;

- 59           ▶ prohibits event permittees from selling, offering for sale, or furnishing an indefinite
- 60 or unlimited number of alcoholic products during a set period for a fixed price;
- 61           ▶ clarifies provisions related to the number of drinks a patron may have before them
- 62 at an event;
- 63           ▶ requires agreements to create exclusive sales territories for beer wholesaler
- 64 licensees;
- 65           ▶ addresses when meetings of the commission may be closed;
- 66           ▶ requires alcohol training and education seminars to be taken in person;
- 67           ▶ requires the governor to comply with certain requirements under the Budgetary
- 68 Procedures Act; and
- 69           ▶ makes technical and conforming amendments.

70 **Money Appropriated in this Bill:**

71           None

72 **Other Special Clauses:**

73           This bill provides an effective date.

74 **Utah Code Sections Affected:**

75 AMENDS:

- 76           **32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 77           **32B-1-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 78           **32B-1-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 79           **32B-1-407 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 80           **32B-1-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 81           **32B-1-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 82           **32B-2-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 83           **32B-2-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 84           **32B-2-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 85           **32B-2-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 86           **32B-2-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 87           **32B-2-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 88           **32B-2-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 89           **32B-2-606 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 90           **32B-4-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 91           **32B-4-206 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 92           **32B-4-208 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 93           **32B-4-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 94           **32B-4-420 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 95           **32B-4-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 96           **32B-5-301 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 97           **32B-5-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 98           **32B-5-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 99           **32B-5-309 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 100          **32B-6-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 101          **32B-6-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 102          **32B-6-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 103          **32B-6-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 104          **32B-6-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 105          **32B-6-302 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 106          **32B-6-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 107          **32B-6-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 108          **32B-6-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 109          **32B-6-403 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 110          **32B-6-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 111          **32B-6-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 112          **32B-6-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 113          **32B-6-502 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 114          **32B-6-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 115          **32B-6-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 116          **32B-6-603 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 117          **32B-6-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 118          **32B-6-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 119          **32B-6-702 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 120          **32B-6-703 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

121           **32B-6-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
122           **32B-6-706 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
123           **32B-8-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
124           **32B-8-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
125           **32B-8-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
126           **32B-8-401 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
127           **32B-8-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
128           **32B-9-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
129           **32B-9-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
130           **32B-9-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
131           **32B-9-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
132           **32B-10-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
133           **32B-10-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
134           **32B-10-403 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
135           **32B-10-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
136           **32B-10-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
137           **32B-10-603 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
138           **32B-11-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
139           **32B-11-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
140           **32B-11-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
141           **32B-11-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
142           **32B-11-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
143           **32B-11-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
144           **32B-11-608 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
145           **32B-12-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
146           **32B-12-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
147           **32B-13-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
148           **32B-13-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
149           **32B-13-301 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276  
150           **52-4-205**, as last amended by Laws of Utah 2010, Chapters 35, 60, and 239  
151           **62A-15-401 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 276

152           **63J-1-201**, as last amended by Laws of Utah 2010, Chapter 415

153           **63J-1-602.2**, as enacted by Laws of Utah 2010, Chapter 265 and last amended by  
154 Coordination Clause, Laws of Utah 2010, Chapter 265

155 ENACTS:

156           **32B-1-206**, Utah Code Annotated 1953

157           **32B-2-209**, Utah Code Annotated 1953

158           **32B-2-305**, Utah Code Annotated 1953

159           **32B-6-409**, Utah Code Annotated 1953

160           **32B-6-801**, Utah Code Annotated 1953

161           **32B-6-802**, Utah Code Annotated 1953

162           **32B-6-803**, Utah Code Annotated 1953

163           **32B-6-804**, Utah Code Annotated 1953

164           **32B-6-805**, Utah Code Annotated 1953

165           **32B-6-901**, Utah Code Annotated 1953

166           **32B-6-902**, Utah Code Annotated 1953

167           **32B-6-903**, Utah Code Annotated 1953

168           **32B-6-904**, Utah Code Annotated 1953

169           **32B-6-905**, Utah Code Annotated 1953

170           **32B-8a-101**, Utah Code Annotated 1953

171           **32B-8a-102**, Utah Code Annotated 1953

172           **32B-8a-201**, Utah Code Annotated 1953

173           **32B-8a-202**, Utah Code Annotated 1953

174           **32B-8a-203**, Utah Code Annotated 1953

175           **32B-8a-301**, Utah Code Annotated 1953

176           **32B-8a-302**, Utah Code Annotated 1953

177           **32B-8a-303**, Utah Code Annotated 1953

178           **32B-8a-401**, Utah Code Annotated 1953

179           **32B-8a-402**, Utah Code Annotated 1953

180           **32B-8a-403**, Utah Code Annotated 1953

181           **32B-8a-404**, Utah Code Annotated 1953

182           **32B-8a-501**, Utah Code Annotated 1953

183 **32B-8a-502**, Utah Code Annotated 1953

184 REPEALS:

185 **26-7-6 (Effective 07/01/11)**, as enacted by Coordination Clause, Laws of Utah 2010,  
186 Chapter 136

187 **32B-4-506 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

188 **32B-4-507 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

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

191 Section 1. Section **32B-1-102 (Effective 07/01/11)** is amended to read:

192 **32B-1-102 (Effective 07/01/11). Definitions.**

193 As used in this title:

194 (1) "Airport lounge" means a business location:

195 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

196 (b) that is located at an international airport with a United States Customs office on the  
197 premises of the international airport.

198 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,  
199 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

200 (3) "Alcoholic beverage" means the following:

201 (a) beer; or

202 (b) liquor.

203 (4) (a) "Alcoholic product" means a product that:

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

205 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other  
206 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol  
207 in an amount equal to or greater than .5% of alcohol by volume.

208 (b) "Alcoholic product" includes an alcoholic beverage.

209 (c) "Alcoholic product" does not include any of the following common items that  
210 otherwise come within the definition of an alcoholic product:

211 (i) except as provided in Subsection (4)(d), an extract;

212 (ii) vinegar;

213 (iii) cider;

214 (iv) essence;  
215 (v) tincture;  
216 (vi) food preparation; or  
217 (vii) an over-the-counter medicine.  
218 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation  
219 when it is used as a flavoring in the manufacturing of an alcoholic product.  
220 (5) "Alcohol training and education seminar" means a seminar that is:  
221 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and  
222 (b) described in Section 62A-15-401.  
223 (6) "Banquet" means an event:  
224 (a) that is held at one or more designated locations approved by the commission in or  
225 on the premises of a:  
226 (i) hotel;  
227 (ii) resort facility;  
228 (iii) sports center; or  
229 (iv) convention center;  
230 (b) for which there is a contract:  
231 (i) between a person operating a facility listed in Subsection (6)(a) and another person;  
232 and  
233 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to  
234 provide an alcoholic product at the event; and  
235 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.  
236 (7) (a) [~~Subject to Subsection (7)(b),~~] "Bar" means a [~~counter or similar~~] surface or  
237 structure:  
238 (i) at which an alcoholic product is:  
239 (A) stored; or  
240 (B) dispensed; or  
241 (ii) from which an alcoholic product is served.  
242 (b) [~~For purposes of a full-service restaurant license or a limited-service restaurant~~  
243 ~~license,~~] "Bar structure" means a surface or structure on [~~the premises of a restaurant~~] a  
244 licensed premises if on or at any place of the surface or structure an alcoholic product is:



245 (i) stored; or  
246 (ii) dispensed.  
247 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:  
248 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by  
249 volume or 3.2% by weight; and  
250 (ii) is obtained by fermentation, infusion, or decoction of malted grain.  
251 (b) "Beer" may or may not contain hops or other vegetable products.  
252 (c) "Beer" includes a product that:  
253 (i) contains alcohol in the percentages described in Subsection (8)(a); and  
254 (ii) is referred to as:  
255 (A) beer;  
256 (B) ale;  
257 (C) porter;  
258 (D) stout;  
259 (E) lager; or  
260 (F) a malt or malted beverage.  
261 (d) "Beer" does not include a flavored malt beverage.  
262 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,  
263 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.  
264 [~~9~~] (10) "Beer retailer" means a business:  
265 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,  
266 whether for consumption on or off the business premises; and  
267 (b) to whom a license is issued:  
268 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise  
269 Beer Retailer Local Authority; or  
270 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,  
271 and Chapter 6, Part 7, On-premise Beer Retailer License.  
272 [~~10~~] (11) "Beer wholesaling license" means a license:  
273 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and  
274 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more  
275 retail licensees or off-premise beer retailers.

276 [~~(11)~~] (12) "Billboard" means a public display used to advertise, including:

277 (a) a light device;

278 (b) a painting;

279 (c) a drawing;

280 (d) a poster;

281 (e) a sign;

282 (f) a signboard; or

283 (g) a scoreboard.

284 [~~(12)~~] (13) "Brewer" means a person engaged in manufacturing:

285 (a) beer;

286 (b) heavy beer; or

287 (c) a flavored malt beverage.

288 [~~(13)~~] (14) "Brewery manufacturing license" means a license issued in accordance with  
289 Chapter 11, Part 5, Brewery Manufacturing License.

290 [~~(14)~~] (15) "Certificate of approval" means a certificate of approval obtained from the  
291 department under [~~Subsection~~] Section 32B-11-201[~~(4)~~].

292 [~~(15)~~] (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle  
293 provided by a bus company to a group of persons pursuant to a common purpose:

294 (a) under a single contract;

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

296 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other  
297 motor vehicle, and a driver to travel together to one or more specified destinations.

298 [~~(16)~~] (17) "Church" means a building:

299 (a) set apart for worship;

300 (b) in which religious services are held;

301 (c) with which clergy is associated; and

302 (d) that is tax exempt under the laws of this state.

303 [~~(17)~~] (18) (a) "Club license" means a license issued in accordance with Chapter 5,  
304 Retail License Act, and Chapter 6, Part 4, Club License.

305 (b) "Club license" includes:

306 (i) a dining club license;

- 307 (ii) an equity club license;
- 308 (iii) a fraternal club license; or
- 309 (iv) a social club license.

310 ~~[(18)]~~ (19) "Commission" means the Alcoholic Beverage Control Commission created  
 311 in Section 32B-2-201.

312 ~~[(19)]~~ (20) "Commissioner" means a member of the commission.

313 ~~[(20)]~~ (21) "Community location" means:

- 314 (a) a public or private school;
- 315 (b) a church;
- 316 (c) a public library;
- 317 (d) a public playground; or
- 318 (e) a public park.

319 ~~[(21)]~~ (22) "Community location governing authority" means:

- 320 (a) the governing body of the community location; or
- 321 (b) if the commission does not know who is the governing body of a community  
 322 location, a person who appears to the commission to have been given on behalf of the  
 323 community location the authority to prohibit an activity at the community location.

324 (23) "Container" means a receptacle that contains an alcoholic product, including:

- 325 (a) a bottle;
- 326 (b) a vessel; or
- 327 (c) a similar item.

328 ~~[(22)]~~ (24) "Convention center" means a facility that is:

- 329 (a) in total at least 30,000 square feet; and
- 330 (b) otherwise defined as a "convention center" by the commission by rule.

331 ~~[(23) For purposes of a full-service restaurant license or limited-service restaurant  
 332 license:]~~

333 ~~[(a) subject to Subsection (23)(b);]~~

334 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a  
 335 dining area of a [restaurant] licensed premises where seating is provided to a patron for service  
 336 of food[; and].

337 (b) "Counter" does not include a surface or structure if on or at any point of the surface

338 or structure an alcoholic product is:

339 (i) stored; or

340 (ii) dispensed.

341 [~~(24)~~] (26) "Department" means the Department of Alcoholic Beverage Control created  
342 in Section 32B-2-203.

343 [~~(25)~~] (27) "Department compliance officer" means an individual who is:

344 (a) an auditor or inspector; and

345 (b) employed by the department.

346 [~~(26)~~] (28) "Department sample" means liquor that is placed in the possession of the  
347 department for testing, analysis, and sampling.

348 [~~(27)~~] (29) "Dining club license" means a license issued in accordance with Chapter 5,  
349 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission  
350 as a dining club license.

351 [~~(28)~~] (30) "Director," unless the context requires otherwise, means the director of the  
352 department.

353 [~~(29)~~] (31) "Disciplinary proceeding" means an adjudicative proceeding permitted  
354 under this title:

355 (a) against a person subject to administrative action; and

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

357 [~~(30) For purposes of a full-service restaurant license or a limited-service restaurant~~  
358 ~~license, "dispense" means:~~]

359 (32) (a) Subject to Subsection (32)(b), "dispense" means:

360 [~~(a)~~] (i) drawing of an alcoholic product:

361 [~~(i)~~] (A) from an area where it is stored; or

362 [~~(ii)~~] (B) as provided in Subsection 32B-6-205(12)(b)(ii) [~~or~~], 32B-6-305(12)(b)(ii),  
363 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

364 [~~(b)~~] (ii) using the alcoholic product described in Subsection [~~(29)(a)~~] (32)(a)(i) on the  
365 premises of the [~~restaurant~~] licensed premises to mix or prepare an alcoholic product to be  
366 furnished to a patron of the [~~restaurant~~] retail licensee.

367 (b) The definition of "dispense" in this Subsection (32) applies only to:

368 (i) a full-service restaurant license;

369 (ii) a limited-service restaurant license;

370 (iii) a reception center license; and

371 (iv) a beer-only restaurant license.

372 [~~(31)~~] (33) "Distillery manufacturing license" means a license issued in accordance  
373 with Chapter 11, Part 4, Distillery Manufacturing License.

374 [~~(32)~~] (34) "Distressed merchandise" means an alcoholic product in the possession of  
375 the department that is saleable, but for some reason is unappealing to the public.

376 [~~(33)~~] (35) "Educational facility" includes:

377 (a) a nursery school;

378 (b) an infant day care center; and

379 (c) a trade and technical school.

380 [~~(34)~~] (36) "Equity club license" means a license issued in accordance with Chapter 5,  
381 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission  
382 as an equity club license.

383 [~~(35)~~] (37) "Event permit" means:

384 (a) a single event permit; or

385 (b) a temporary beer event permit.

386 (38) "Exempt license" means a license exempt under Section 32B-1-201 from being  
387 considered in determining the total number of a retail license that the commission may issue at  
388 any time.

389 [~~(36)~~] (39) (a) "Flavored malt beverage" means a beverage:

390 (i) that contains at least .5% alcohol by volume;

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

394 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop  
395 extract; and

396 (iv) (A) for which the producer is required to file a formula for approval with the  
397 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

399 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

400            [~~37~~] (40) "Fraternal club license" means a license issued in accordance with Chapter  
401 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the  
402 commission as a fraternal club license.

403            [~~38~~] (41) "Full-service restaurant license" means a license issued in accordance with  
404 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

405            [~~39~~] (42) (a) "Furnish" means by any means to provide with, supply, or give an  
406 individual an alcoholic product, by sale or otherwise.

407            (b) "Furnish" includes to:

408            (i) serve;

409            (ii) deliver; or

410            (iii) otherwise make available.

411            [~~40~~] (43) "Guest" means an individual who meets the requirements of Subsection  
412 32B-6-407(9).

413            [~~41~~] (44) "Health care practitioner" means:

414            (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

415            (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

416            (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

417            (d) a physical therapist licensed under Title 58, Chapter 24b, Physical [Therapist]

418 Therapy Practice Act;

419            (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,  
420 Nurse Practice Act;

421            (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy  
422 Practice Act;

423            (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational  
424 Therapy Practice Act;

425            (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

426            (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health  
427 Professional Practice Act;

428            (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

429            (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical  
430 Practice Act;

- 431 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental  
432 Hygienist Practice Act; and
- 433 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 434 ~~[(42)]~~ (45) (a) "Heavy beer" means a product that:
- 435 (i) contains more than 4% alcohol by volume; and
- 436 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 437 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 438 ~~[(43)]~~ (46) "Hotel" is as defined by the commission by rule.
- 439 ~~[(44)]~~ (47) "Identification card" means an identification card issued under Title 53,  
440 Chapter 3, Part 8, Identification Card Act.
- 441 ~~[(45)]~~ (48) "Industry representative" means an individual who is compensated by  
442 salary, commission, or other means for representing and selling an alcoholic product of a  
443 manufacturer, supplier, or importer of liquor.
- 444 ~~[(46)]~~ (49) "Industry representative sample" means liquor that is placed in the  
445 possession of the department for testing, analysis, and sampling by a local industry  
446 representative on the premises of the department to educate the local industry representative of  
447 the quality and characteristics of the product.
- 448 ~~[(47)]~~ (50) "Interdicted person" means a person to whom the sale, offer for sale, or  
449 furnishing of an alcoholic product is prohibited by:
- 450 (a) law; or
- 451 (b) court order.
- 452 ~~[(48)]~~ (51) "Intoxicated" means that a person:
- 453 (a) is significantly impaired as to the person's mental or physical functions as a result of  
454 the use of:
- 455 (i) an alcoholic product;
- 456 (ii) a controlled substance;
- 457 (iii) a substance having the property of releasing toxic vapors; or
- 458 (iv) a combination of Subsections ~~[(48)]~~ (51)(a)(i) through (iii); and
- 459 (b) exhibits plain and easily observed outward manifestations of behavior or physical  
460 signs produced by the over consumption of an alcoholic product.
- 461 ~~[(49)]~~ (52) "Investigator" means an individual who is:

- 462 (a) a department compliance officer; or
- 463 (b) a nondepartment enforcement officer.
- 464 [~~(50)~~] (53) "Invitee" is as defined in Section 32B-8-102.
- 465 [~~(51)~~] (54) "License" means:
- 466 (a) a retail license;
- 467 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
- 468 Licenses Act;
- 469 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 470 or
- 471 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 472 [~~(52)~~] (55) "Licensee" means a person who holds a license.
- 473 [~~(53)~~] (56) "Limited-service restaurant license" means a license issued in accordance
- 474 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
- 475 [~~(54)~~] (57) "Limousine" means a motor vehicle licensed by the state or a local
- 476 authority, other than a bus or taxicab:
- 477 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 478 barrier;
- 479 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 480 accordance with the business entity's tariff; and
- 481 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 482 to travel to one or more specified destinations.
- 483 [~~(55)~~] (58) (a) (i) "Liquor" means a liquid that:
- 484 (A) is:
- 485 (I) alcohol;
- 486 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 487 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 488 (IV) other drink or drinkable liquid; and
- 489 (B) (I) contains at least .5% alcohol by volume; and
- 490 (II) is suitable to use for beverage purposes.
- 491 (ii) "Liquor" includes:
- 492 (A) heavy beer;



- 493 (B) wine; and
- 494 (C) a flavored malt beverage.
- 495 (b) "Liquor" does not include beer.
- 496 ~~[(56)]~~ (59) "Liquor Control Fund" means the enterprise fund created by Section
- 497 32B-2-301.
- 498 ~~[(57)]~~ (60) "Liquor warehousing license" means a license that is issued:
- 499 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 500 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 501 storage, sale, or distribution of liquor regardless of amount.
- 502 ~~[(58)]~~ (61) "Local authority" means:
- 503 (a) for premises that are located in an unincorporated area of a county, the governing
- 504 body of a county; or
- 505 (b) for premises that are located in an incorporated city or a town, the governing body
- 506 of the city or town.
- 507 ~~[(59)]~~ (62) "Lounge or bar area" is as defined by rule made by the commission.
- 508 (63) "Opaque" means impenetrable to sight.
- 509 ~~[(60)]~~ (64) "Manufacture" means to distill, brew, rectify, mix, compound, process,
- 510 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
- 511 others.
- 512 ~~[(61)]~~ (65) "Member" means an individual who, after paying regular dues, has full
- 513 privileges in an equity club licensee or fraternal club licensee.
- 514 ~~[(62)]~~ (66) (a) "Military installation" means a base, air field, camp, post, station, yard,
- 515 center, or homeport facility for a ship:
- 516 (i) (A) under the control of the United States Department of Defense; or
- 517 (B) of the National Guard;
- 518 (ii) that is located within the state; and
- 519 (iii) including a leased facility.
- 520 (b) "Military installation" does not include a facility used primarily for:
- 521 (i) civil works;
- 522 (ii) a rivers and harbors project; or
- 523 (iii) a flood control project.

524 ~~[(63)]~~ (67) "Minor" means an individual under the age of 21 years.

525 ~~[(64)]~~ (68) "Nondepartment enforcement agency" means an agency that:

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

527 (ii) is an agency of a county, city, or town; and

528 (b) has a responsibility to enforce one or more provisions of this title.

529 ~~[(65)]~~ (69) "Nondepartment enforcement officer" means an individual who is:

530 (a) a peace officer, examiner, or investigator; and

531 (b) employed by a nondepartment enforcement agency.

532 ~~[(66)]~~ (70) (a) "Off-premise beer retailer" means a beer retailer who is:

533 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local

534 Authority; and

535 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's

536 premises.

537 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

538 ~~[(67)]~~ (71) "On-premise banquet license" means a license issued in accordance with

539 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

540 ~~[(68)]~~ (72) "On-premise beer retailer" means a beer retailer who is:

541 (a) authorized to sell, offer for sale, or furnish beer under a license issued in

542 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer

543 Retailer License; and

544 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's

545 premises[;];

546 (i) regardless of whether the beer retailer sells beer for consumption off the licensed

547 premises[-]; and

548 ~~[(69) "Package" means any of the following containing an alcoholic product:]~~

549 ~~[(a) a container;]~~

550 ~~[(b) a bottle;]~~

551 ~~[(c) a vessel; or]~~

552 ~~[(d) other receptacle.]~~

553 (ii) on and after March 1, 2012, operating:

554 (A) as a tavern; or

555 (B) in a manner that meets the recreational amenity requirements of Subsection  
 556 32B-6-703(2)(e).

557 [~~(70)~~] (73) "Package agency" means a retail liquor location operated:

558 (a) under an agreement with the department; and

559 (b) by a person:

560 (i) other than the state; and

561 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package  
 562 Agency, to sell packaged liquor for consumption off the premises of the package agency.

563 [~~(71)~~] (74) "Package agent" means a person who holds a package agency.

564 [~~(72)~~] (75) "Patron" means an individual to whom food, beverages, or services are sold,  
 565 offered for sale, or furnished, or who consumes an alcoholic product including:

566 (a) a customer;

567 (b) a member;

568 (c) a guest;

569 (d) an attendee of a banquet or event;

570 (e) an individual who receives room service;

571 (f) a resident of a resort;

572 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

573 or

574 (h) an invitee.

575 [~~(73)~~] (76) "Permittee" means a person issued a permit under:

576 (a) Chapter 9, Event Permit Act; or

577 (b) Chapter 10, Special Use Permit Act.

578 [~~(74)~~] (77) "Person subject to administrative action" means:

579 (a) a licensee;

580 (b) a permittee;

581 (c) a manufacturer;

582 (d) a supplier;

583 (e) an importer;

584 (f) [~~an out-of-state brewer~~] one of the following holding a certificate of approval[~~;~~ ~~or~~];

585 (i) an out-of-state brewer;

586 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

587 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

588 (g) staff of:

589 (i) a person listed in Subsections [~~(74)~~] (77)(a) through [~~(g)~~] (f); or

590 (ii) a package agent.

591 [~~(75)~~] (78) "Premises" means a building, enclosure, or room used in connection with  
592 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic  
593 product, unless otherwise defined in this title or rules made by the commission.

594 [~~(76)~~] (79) "Prescription" means an order issued by a health care practitioner when:

595 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,  
596 to prescribe a controlled substance, other drug, or device for medicinal purposes;

597 (b) the order is made in the course of that health care practitioner's professional  
598 practice; and

599 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

600 [~~(77)~~] (80) (a) "Private event" means a specific social, business, or recreational event:

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

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

605 (b) "Private event" does not include an event to which the general public is invited,  
606 whether for an admission fee or not.

607 [~~(78)~~] (81) (a) "Proof of age" means:

608 (i) an identification card;

609 (ii) an identification that:

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

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

613 (C) includes date of birth; and

614 (D) has a picture affixed;

615 (iii) a valid driver license certificate that:

616 (A) includes date of birth;

- 617 (B) has a picture affixed; and
- 618 (C) is issued:
- 619 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 620 (II) in accordance with the laws of the state in which it is issued;
- 621 (iv) a military identification card that:
- 622 (A) includes date of birth; and
- 623 (B) has a picture affixed; or
- 624 (v) a valid passport.
- 625 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 626 Section 53-3-207.

627 ~~[(79)]~~ (82) (a) "Public building" means a building or permanent structure that is:

- 628 (i) owned or leased by:
- 629 (A) the state; or
- 630 (B) a local government entity; and
- 631 (ii) used for:
- 632 (A) public education;
- 633 (B) transacting public business; or
- 634 (C) regularly conducting government activities.

635 (b) "Public building" does not include a building owned by the state or a local

636 government entity when the building is used by a person, in whole or in part, for a proprietary

637 function.

638 ~~[(80)]~~ (83) "Public conveyance" means a conveyance to which the public or a portion

639 of the public has access to and a right to use for transportation, including an airline, railroad,

640 bus, boat, or other public conveyance.

641 (84) "Reception center" means a business that:

- 642 (a) operates facilities that are at least 5,000 square feet; and
- 643 (b) has as its primary purpose the leasing of the facilities described in Subsection
- 644 (84)(a) to a third party for the third party's event.

645 (85) "Reception center license" means a license issued in accordance with Chapter 5,

646 Retail License Act, and Chapter 6, Part 8, Reception Center License.

647 ~~[(81)]~~ (86) (a) "Record" means information that is:

648 (i) inscribed on a tangible medium; or  
 649 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

650 (b) "Record" includes:

- 651 (i) a book;
- 652 (ii) a book of account;
- 653 (iii) a paper;
- 654 (iv) a contract;
- 655 (v) an agreement;
- 656 (vi) a document; or
- 657 (vii) a recording in any medium.

658 [~~82~~] (87) "Residence" means a person's principal place of abode within Utah.

659 [~~83~~] (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

660 [~~84~~] (89) "Resort" is as defined in Section 32B-8-102.

661 [~~85~~] (90) "Resort facility" is as defined by the commission by rule.

662 [~~86~~] (91) "Resort license" means a license issued in accordance with Chapter 5,  
 663 Retail License Act, and Chapter 8, Resort License Act.

664 [~~87~~] (92) "Restaurant" means a business location:

- 665 (a) at which a variety of foods are prepared;
- 666 (b) at which complete meals are served to the general public; and
- 667 (c) that is engaged primarily in serving meals to the general public.

668 [~~88~~] (93) "Retail license" means one of the following licenses issued under this title:

- 669 (a) a full-service restaurant license;
- 670 (b) a limited-service restaurant license;
- 671 (c) a club license;
- 672 (d) an airport lounge license;
- 673 (e) an on-premise banquet license; [~~or~~]
- 674 (f) an on-premise beer license[=];
- 675 (g) a reception center license; or
- 676 (h) a beer-only restaurant license.

677 [~~89~~] (94) "Room service" means furnishing an alcoholic product to a person in a  
 678 guest room of a:

679 (a) hotel; or

680 (b) resort facility.

681 [~~90~~] (95) "Serve" means to place an alcoholic product before an individual.

682 [~~91~~] (96) (a) "School" means a building used primarily for the general education of  
683 minors.

684 (b) "School" does not include an educational facility.

685 [~~92~~] (97) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,  
686 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,  
687 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether  
688 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or  
689 the rules made by the commission.

690 [~~93~~] (98) "Sexually oriented entertainer" means a person who while in a state of  
691 seminudity appears at or performs:

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

693 (b) on the premises of:

694 (i) a social club licensee; or

695 (ii) a tavern;

696 (c) on behalf of or at the request of the licensee described in Subsection [~~93~~] (98)(b);

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

698 (e) whether or not the person is designated as:

699 (i) an employee;

700 (ii) an independent contractor;

701 (iii) an agent of the licensee; or

702 (iv) a different type of classification.

703 [~~94~~] (99) "Single event permit" means a permit issued in accordance with Chapter 9,  
704 Part 3, Single Event Permit.

705 [~~95~~] (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels  
706 of beer, heavy beer, and flavored malt beverages per year.

707 [~~96~~] (101) "Social club license" means a license issued in accordance with Chapter 5,  
708 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission  
709 as a social club license.

710            [~~(97)~~] (102) "Special use permit" means a permit issued in accordance with Chapter 10,  
711 Special Use Permit Act.

712            [~~(98)~~] (103) (a) "Spirituous liquor" means liquor that is distilled.

713            (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by  
714 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

715            [~~(99)~~] (104) "Sports center" is as defined by the commission by rule.

716            [~~(100)~~] (105) (a) "Staff" means an individual who engages in activity governed by this  
717 title:

718            (i) on behalf of a business, including a package agent, licensee, permittee, or certificate  
719 holder;

720            (ii) at the request of the business, including a package agent, licensee, permittee, or  
721 certificate holder; or

722            (iii) under the authority of the business, including a package agent, licensee, permittee,  
723 or certificate holder.

724            (b) "Staff" includes:

725            (i) an officer;

726            (ii) a director;

727            (iii) an employee;

728            (iv) personnel management;

729            (v) an agent of the licensee, including a managing agent;

730            (vi) an operator; or

731            (vii) a representative.

732            [~~(101)~~] (106) "State of nudity" means:

733            (a) the appearance of:

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

735            (ii) a human genital;

736            (iii) a human pubic area; or

737            (iv) a human anus; or

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

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

740            (ii) a human genital;



741 (iii) a human pubic area; or

742 (iv) a human anus.

743 ~~[(102)]~~ (107) "State of seminudity" means a state of dress in which opaque clothing  
744 covers no more than:

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

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

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

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

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

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

752 ~~[(103)]~~ (108) (a) "State store" means a facility for the sale of packaged liquor:

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

754 (ii) operated by a state employee.

755 (b) "State store" does not include:

756 (i) a package agency;

757 (ii) a licensee; or

758 (iii) a permittee.

759 ~~[(104) For purposes of a full-service restaurant license or a limited-service restaurant  
760 license:]~~

761 (109) (a) "Storage area" means an area on licensed premises where the licensee stores  
762 an alcoholic product.

763 (b) "Store" means to place or maintain in a location an alcoholic product from which a  
764 person draws to prepare an alcoholic product to be furnished to a patron ~~[of the restaurant]~~,

765 except as provided in Subsection 32B-6-205(12)(b)(ii) ~~[or]~~, 32B-6-305(12)(b)(ii),

766 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

767 ~~[(105)]~~ (110) "Sublicense" is as defined in Section 32B-8-102.

768 ~~[(106)]~~ (111) "Supplier" means a person who sells an alcoholic product to the  
769 department.

770 ~~[(107)]~~ (112) "Tavern" means an on-premise beer retailer who is:

771 (a) issued a license by the commission in accordance with Chapter 5, Retail License

772 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

773 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,  
774 On-premise Beer Retailer License.

775 [~~(108)~~] (113) "Temporary beer event permit" means a permit issued in accordance with  
776 Chapter 9, Part 4, Temporary Beer Event Permit.

777 [~~(109)~~] (114) "Temporary domicile" means the principal place of abode within Utah of  
778 a person who does not have a present intention to continue residency within Utah permanently  
779 or indefinitely.

780 (115) "Translucent" means a substance that allows light to pass through, but does not  
781 allow an object or person to be seen through the substance.

782 [~~(110)~~] (116) "Unsaleable liquor merchandise" means a [~~package~~] container that:

783 (a) is unsaleable because the [~~package~~] container is:

784 (i) unlabeled;

785 (ii) leaky;

786 (iii) damaged;

787 (iv) difficult to open; or

788 (v) partly filled;

789 (b) (i) has faded labels or defective caps or corks;

790 (ii) has contents that are:

791 (A) cloudy;

792 (B) spoiled; or

793 (C) chemically determined to be impure; or

794 (iii) contains:

795 (A) sediment; or

796 (B) a foreign substance; or

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

798 [~~(111)~~] (117) (a) "Wine" means an alcoholic product obtained by the fermentation of  
799 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or  
800 not another ingredient is added.

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

803            [~~(H2)~~] (118) "Winery manufacturing license" means a license issued in accordance  
804 with Chapter 11, Part 3, Winery Manufacturing License.

805            Section 2. Section **32B-1-201 (Effective 07/01/11)** is amended to read:

806            **32B-1-201 (Effective 07/01/11). Restrictions on number of retail licenses that may**  
807 **be issued -- Determining population -- Exempt licenses.**

808            (1) As used in this section:

809            (a) "Alcohol-related law enforcement officer" means a law enforcement officer  
810 employed by the Department of Public Safety that has as a primary responsibility for:

811            (i) the enforcement of this title; or

812            (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and  
813 Reckless Driving.

814            (b) "Enforcement ratio" is the number calculated as follows:

815            (i) determine the quotient equal to the total number of quota retail licenses available  
816 divided by the total number of alcohol-related law enforcement officers; and

817            (ii) round the number determined in accordance with Subsection (1)(b)(ii) up to the  
818 nearest whole number.

819            (c) "Quota retail license" means:

820            (i) a full-service restaurant license;

821            (ii) a limited-service restaurant license;

822            (iii) a club license;

823            (iv) an on-premise banquet license;

824            (v) an on-premise beer retailer operating as a tavern; and

825            (vi) a reception center license.

826            (d) "Total number of alcohol-related law enforcement officers" means the total number  
827 of alcohol-related law enforcement officers as of a specified date as certified by the Department  
828 of Public Safety to the department.

829            (e) "Total number of quota retail licenses available" means the number calculated by:

830            (i) determining as of a specified date for each quota retail license the number of  
831 licenses that the commission may not exceed calculated by dividing the population of the state  
832 by the number specified in the relevant provision for the quota retail license; and

833            (ii) adding together the numbers determined under Subsection (1)(d)(i).

834 (2) (a) Beginning on July 1, 2012, the department shall annually determine the  
835 enforcement ratio as of July 1 of that year.

836 (b) If the enforcement ratio is greater than 56, the commission may not issue a quota  
837 retail license for the 12-month period beginning on the July 1 for which the enforcement ratio  
838 is greater than 52.

839 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license  
840 during the 12-month period described in Subsection (2)(b) beginning on the day on which a  
841 sufficient number of alcohol-related law enforcement officers are employed so that if the  
842 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 56.

843 (3) For purposes of determining the number of state stores that the commission may  
844 establish or the number of package agencies or retail licenses that the commission may issue,  
845 the commission shall determine population by:

846 [(+)] (a) the most recent United States decennial or special census; or

847 [(2)] (b) another population determination made by the United States or state  
848 governments.

849 (4) The commission may not consider a retail license that meets the following  
850 conditions in determining the total number of licenses available for that type of retail license  
851 that the commission may issue at any time:

852 (a) the retail license was issued to a club licensee designated as a dining club as of July  
853 1, 2011; and

854 (b) the dining club license is converted to another type of retail license in accordance  
855 with Section 32B-6-709.

856 Section 3. Section **32B-1-206** is enacted to read:

857 **32B-1-206. Calculation of ratio of gross receipts of food to alcoholic product.**

858 In calculating the annual gross receipts of a retail license or sublicense for purposes of  
859 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food  
860 or an alcoholic product, a retail licensee may not include in the calculation the money from the  
861 sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of \$250.

862 Section 4. Section **32B-1-402 (Effective 07/01/11)** is amended to read:

863 **32B-1-402 (Effective 07/01/11). Definitions.**

864 As used in this part:

865 ~~[(1)]~~ "Applicable licensee" means the following:]

866 ~~[(a)]~~ a dining club licensee; or]

867 ~~[(b)]~~ a social club licensee.];

868 ~~[(2)]~~ (1) "Authorized person" means a person authorized by law to sell or otherwise  
869 handle an alcoholic product.

870 ~~[(3)]~~ (2) "Restricted area" means a place where an alcoholic product is sold or  
871 consumed, but where under this title a minor is not permitted.

872 ~~[(4)]~~ (3) "Statement of age" means a statement signed under Section 32B-1-405  
873 verifying the age of the person signing the statement.

874 Section 5. Section **32B-1-407 (Effective 07/01/11)** is amended to read:

875 **32B-1-407 (Effective 07/01/11). Verification of proof of age by applicable**  
876 **licensees.**

877 (1) As used in this section, "applicable licensee" means:

878 (a) a dining club;

879 (b) a social club; or

880 (c) a tavern.

881 ~~[(1)]~~ (2) Notwithstanding any other provision of this part, an applicable licensee shall  
882 require that an authorized person ~~[under]~~ for the applicable licensee verify proof of age as  
883 provided in this section.

884 ~~[(2)]~~ (3) An authorized person is required to verify proof of age under this section  
885 before an individual who appears to be 35 years of age or younger:

886 (a) gains admittance to the premises of a social club licensee or tavern; or

887 (b) procures an alcoholic product on the premises of a dining club licensee.

888 ~~[(3)]~~ (4) To comply with Subsection ~~[(2)]~~ (3), an authorized person shall:

889 (a) request the individual present proof of age; and

890 (b) (i) verify the validity of the proof of age electronically under the verification  
891 program created in Subsection ~~[(4)]~~ (5); or

892 (ii) if the proof of age cannot be electronically verified as provided in Subsection ~~[(3)]~~  
893 ~~(4)~~(b)(i), request that the individual comply with a process established by the commission by  
894 rule.

895 ~~[(4)]~~ (5) The commission shall establish by rule an electronic verification program that

896 includes the following:

897 (a) the specifications for the technology used by the applicable licensee to  
898 electronically verify proof of age, including that the technology display to the person described  
899 in Subsection [~~(1)~~] (2) no more than the following for the individual who presents the proof of  
900 age:

- 901 (i) the name;
- 902 (ii) the age;
- 903 (iii) the number assigned to the individual's proof of age by the issuing authority;
- 904 (iv) the birth date;
- 905 (v) the gender; and
- 906 (vi) the status and expiration date of the individual's proof of age; and
- 907 (b) the security measures that must be used by an applicable licensee to ensure that  
908 information obtained under this section is:

909 (i) used by the applicable licensee only for purposes of verifying proof of age in  
910 accordance with this section; and

911 (ii) retained by the applicable licensee for seven days after the day on which the  
912 applicable licensee obtains the information.

913 [~~(5)~~] (6) (a) An applicable licensee may not disclose information obtained under this  
914 section except as provided under this title.

915 (b) Information obtained under this section is considered a record for any purpose  
916 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

917 Section 6. Section **32B-1-602 (Effective 07/01/11)** is amended to read:

918 **32B-1-602 (Effective 07/01/11). Definitions.**

919 As used in this part:

920 (1) "Malted beverage" means:

- 921 (a) beer;
- 922 (b) a flavored malt beverage; and
- 923 (c) heavy beer.

924 (2) "Packaging" means the outer packaging that is visible to a consumer such as a  
925 carton, case, or other wrapper of a [~~package~~] container.

926 Section 7. Section **32B-1-605 (Effective 07/01/11)** is amended to read:

927 **32B-1-605 (Effective 07/01/11). General procedure for approval.**

928 (1) To obtain approval of the label and packaging of a malted beverage, the  
929 manufacturer of the malted beverage shall submit an application to the department for  
930 approval.

931 (2) The application described in Subsection (1) shall be on a form approved by the  
932 department and include the following:

933 (a) a copy of a federal certificate of label approval from the Department of Treasury,  
934 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking  
935 approval;

936 (b) a complete set of original labels for each size of [~~package~~] container of the malted  
937 beverage;

938 (c) a description of the size of the [~~package~~] container on which a label will be placed;

939 (d) a description of each type of [~~package~~] container of the malted beverage; and

940 (e) a description of any packaging for the malted beverage.

941 (3) The department may assess a reasonable fee for reviewing a label and packaging for  
942 approval.

943 (4) (a) The department shall notify a manufacturer within 30 days after the day on  
944 which the manufacturer submits an application whether the label and packaging is approved or  
945 denied.

946 (b) If the department determines that an unusual circumstance requires additional time,  
947 the department may extend the time period described in Subsection (4)(a).

948 (5) A manufacturer shall obtain the approval of the department of a revision of a  
949 previously approved label and packaging before a malted beverage using the revised label and  
950 packaging may be distributed or sold in this state.

951 (6) (a) The department may revoke a label and packaging previously approved upon a  
952 finding that the label and packaging is not in compliance with this title or rules of the  
953 commission.

954 (b) The department shall notify the person who applies for the approval of a label and  
955 packaging at least five business days before the day on which a label and packaging approval is  
956 considered revoked.

957 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written

958 argument or evidence to the department on why the revocation should not occur.

959 (7) A manufacturer that applies for approval of a label and packaging may appeal a  
960 denial or revocation of a label and packaging approval to the commission.

961 Section 8. Section **32B-2-201 (Effective 07/01/11)** is amended to read:

962 **32B-2-201 (Effective 07/01/11). Alcoholic Beverage Control Commission created.**

963 (1) There is created the "Alcoholic Beverage Control Commission." The commission is  
964 the governing board over the department.

965 (2) (a) The commission is composed of five part-time commissioners appointed by the  
966 governor with the consent of the Senate.

967 (b) No more than three commissioners may be of the same political party.

968 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the  
969 governor shall appoint each new commissioner or reappointed commissioner to a four-year  
970 term.

971 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
972 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no  
973 more than two commissioners expire in a fiscal year.

974 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall  
975 appoint a replacement for the unexpired term with the consent of the Senate.

976 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on  
977 the commission after the expiration of a term until a successor is appointed by the governor,  
978 with the consent of the Senate.

979 (5) A commissioner shall take the oath of office.

980 (6) (a) The governor may remove a commissioner from the commission for cause after  
981 a public hearing conducted by:

982 (i) the governor; or

983 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

984 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor  
985 shall provide the commissioner notice of:

986 (i) the date, time, and place of the hearing; and

987 (ii) the alleged grounds for the removal.

988 (c) The commissioner shall have an opportunity to:



989 (i) attend the hearing;

990 (ii) present witnesses and other evidence; and

991 (iii) confront and cross examine witnesses.

992 (d) After a hearing under this Subsection (6):

993 (i) the person conducting the hearing shall prepare written findings of fact and  
994 conclusions of law; and

995 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the  
996 commissioner.

997 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing  
998 examiner shall issue a written recommendation to the governor in addition to complying with  
999 Subsection (6)(d).

1000 (f) A commissioner has five days from the day on which the commissioner receives the  
1001 findings and conclusions described in Subsection (6)(d) to file written objections to the  
1002 recommendation before the governor issues a final order.

1003 (g) The governor shall:

1004 (i) issue the final order under this Subsection (6) in writing; and

1005 (ii) serve the final order upon the commissioner.

1006 (7) (a) A commissioner may not receive compensation or benefits for the  
1007 commissioner's service, but may receive per diem and expenses incurred in the performance of  
1008 the commissioner's official duties at the rates established by the Division of Finance under  
1009 Sections 63A-3-106 and 63A-3-107.

1010 (b) A commissioner may decline to receive per diem and expenses for the  
1011 commissioner's service.

1012 [~~(8) (a) (i) The commission shall elect:~~]

1013 [~~(A) one commissioner to serve as chair;~~]

1014 (8) (a) The governor shall annually appoint the chair of the commission. A  
1015 commissioner serves as chair to the commission at the pleasure of the governor.

1016 (b) The commission shall elect:

1017 [~~(B)~~] (i) another commissioner to serve as vice chair; and

1018 [~~(C)~~] (ii) other commission officers as the commission considers advisable.

1019 [~~(D)~~] (c) A commissioner elected under Subsection (8)(b) shall serve in the office to

1020 which the commissioner is elected [~~under Subsection (8)(a)(i)~~] at the pleasure of the  
1021 commission.

1022 [~~(b)~~] (9) (a) Each commissioner has equal voting rights on a commission matter when  
1023 in attendance at a commission meeting.

1024 [~~(c)~~] (b) Three commissioners is a quorum for conducting commission business.

1025 [~~(d)~~] (c) A majority vote of the quorum present at a meeting is required for the  
1026 commission to act.

1027 [~~(9)~~] (10) (a) The commission shall meet at least monthly, but may hold other meetings  
1028 at times and places as scheduled by:

1029 (i) the commission;

1030 (ii) the chair; or

1031 (iii) three commissioners upon filing a written request for a meeting with the chair.

1032 (b) Notice of the time and place of a commission meeting shall be given to each  
1033 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public  
1034 Meetings Act. A commission meeting is open to the public, except for a commission meeting  
1035 or portion of a commission meeting that is closed by the commission as authorized by Sections  
1036 52-4-204 and 52-4-205.

1037 Section 9. Section **32B-2-202 (Effective 07/01/11)** is amended to read:

1038 **32B-2-202 (Effective 07/01/11). Powers and duties of the commission.**

1039 (1) The commission shall:

1040 (a) act as a general policymaking body on the subject of alcoholic product control;

1041 (b) adopt and issue policies, rules, and procedures;

1042 (c) set policy by written rules that establish criteria and procedures for:

1043 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,  
1044 permit, or certificate of approval; and

1045 (ii) determining the location of a state store, package agency, or retail licensee;

1046 (d) decide within the limits, and under the conditions imposed by this title, the number  
1047 and location of state stores, package agencies, and retail licensees in the state;

1048 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,  
1049 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,  
1050 consumption, manufacture, and distribution of an alcoholic product:

- 1051 (i) a package agency;
- 1052 (ii) a full-service restaurant license;
- 1053 (iii) a limited-service restaurant license;
- 1054 (iv) a club license;
- 1055 (v) an airport lounge license;
- 1056 (vi) an on-premise banquet license;
- 1057 (vii) a resort license, under which four or more sublicenses may be included;
- 1058 (viii) an on-premise beer retailer license;
- 1059 (ix) a reception center license;
- 1060 (x) a beer-only restaurant license;
- 1061 [~~(ix)~~] (xi) a single event permit;
- 1062 [~~(x)~~] (xii) a temporary beer event permit;
- 1063 [~~(xi)~~] (xiii) a special use permit;
- 1064 [~~(xii)~~] (xiv) a manufacturing license;
- 1065 [~~(xiii)~~] (xv) a liquor warehousing license;
- 1066 [~~(xiv)~~] (xvi) a beer wholesaling license; and
- 1067 [~~(xv) an out-of-state brewer]~~
- 1068 (xvii) one of the following that holds a certificate of approval[;]:
- 1069 (A) an out-of-state brewer;
- 1070 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 1071 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 1072 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
- 1073 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
- 1074 manufacture, and distribution of an alcoholic product:
- 1075 (i) a conditional full-service restaurant license; or
- 1076 (ii) a conditional limited-service restaurant license;
- 1077 (g) prescribe the duties of the department in assisting the commission in issuing a
- 1078 package agency, license, permit, or certificate of approval under this title;
- 1079 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 1080 in accordance with Section 63J-1-504;
- 1081 (i) fix prices at which liquor is sold that are the same at all state stores, package

1082 agencies, and retail licensees;

1083 (j) issue and distribute price lists showing the price to be paid by a purchaser for each  
1084 class, variety, or brand of liquor kept for sale by the department;

1085 (k) (i) require the director to follow sound management principles; and  
1086 (ii) require periodic reporting from the director to ensure that:  
1087 (A) sound management principles are being followed; and  
1088 (B) policies established by the commission are being observed;

1089 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,  
1090 and matters submitted by the director to the commission; and  
1091 (ii) do the things necessary to support the department in properly performing the  
1092 department's duties;

1093 (m) obtain temporarily and for special purposes the services of an expert or person  
1094 engaged in the practice of a profession, or a person who possesses a needed skill if:  
1095 (i) considered expedient; and  
1096 (ii) approved by the governor;

1097 (n) prescribe the conduct, management, and equipment of premises upon which an  
1098 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

1099 (o) make rules governing the credit terms of beer sales within the state to retail  
1100 licensees; and

1101 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take  
1102 disciplinary action against a person subject to administrative action.

1103 (2) The power of the commission to do the following is plenary, except as otherwise  
1104 provided by this title, and not subject to review:

1105 (a) establish a state store;  
1106 (b) issue authority to act as a package agent or operate a package agency; and  
1107 (c) issue or deny a license, permit, or certificate of approval.

1108 (3) If the commission is authorized or required to make a rule under this title, the  
1109 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative  
1110 Rulemaking Act.

1111 Section 10. Section **32B-2-205 (Effective 07/01/11)** is amended to read:  
1112 **32B-2-205 (Effective 07/01/11). Director of alcoholic beverage control.**

1113 (1) (a) The commission by a vote of four of the five commissioners, [and] with the  
 1114 approval of the governor, and with the consent of the Senate, shall appoint a director of  
 1115 alcoholic beverage control who is the administrative head of the department.

1116 (b) The director serves at the pleasure of the commission, except that the director may  
 1117 only be removed from office by a vote of four commissioners.

1118 (c) The director may not be a commissioner.

1119 (d) The director shall:

1120 (i) be qualified in administration;

1121 (ii) be knowledgeable by experience and training in the field of business management;

1122 and

1123 (iii) possess any other qualification prescribed by the commission.

1124 (2) The governor shall establish the director's compensation within the salary range  
 1125 fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

1126 (3) The director shall:

1127 (a) carry out the policies of the commission;

1128 (b) carry out the policies of the department;

1129 (c) fully inform the commission of the operations and administrative activities of the  
 1130 department; and

1131 (d) assist the commission in the proper discharge of the commission's duties.

1132 Section 11. Section **32B-2-209** is enacted to read:

1133 **32B-2-209. Prohibited interests, relationships, and actions.**

1134 (1) As used in this section, "immediate family" means an individual's:

1135 (a) spouse; or

1136 (b) child who is younger than 18 years of age.

1137 (2) In addition to being subject to Title 67, Chapter 16, Utah Public Officers' and

1138 Employees' Ethics Act, an individual who is a commissioner, the director, or a department

1139 employee may not:

1140 (a) have a pecuniary interest, whether as the holder of stock or other securities other  
 1141 than a mutual fund, in a person who applies for or holds a package agency, license, permit, or  
 1142 certificate under this title;

1143 (b) otherwise have a conflict of interest with a person who applies for or holds a

1144 package agency, license, permit, or certificate under this title;

1145 (c) have an office, position, or relationship, or be engaged in a business or avocation  
1146 that interferes or is incompatible with the effective and objective fulfillment of the duties of  
1147 office or employment;

1148 (d) have a direct business relationship with a person subject to administrative action  
1149 under this title;

1150 (e) accept a gift, gratuity, emolument, or employment from:

1151 (i) a person who applies for or holds a package agency, license, permit, or certificate  
1152 under this title; or

1153 (ii) an officer, agent, or employee of a person who applies for or holds a package  
1154 agency, license, permit, or certificate under this title, except that a commissioner, the director,  
1155 or a department employee may accept a gift from an officer, agent, or employee if the gift is  
1156 equal to or less than \$50; or

1157 (f) solicit, suggest, request, or recommend, directly or indirectly, the appointment of  
1158 any person to any office or employment with a person who applies for or holds a package  
1159 agency, license, permit, or certificate under this title.

1160 (3) An immediate family member of a commissioner, the director, or a department  
1161 employee may not:

1162 (a) have a pecuniary interest, whether as the holder of stock or other securities, in a  
1163 person who applies for or holds a package agency, license, permit, or certificate under this title;

1164 (b) otherwise have a conflict of interest with a person who applies for or holds a  
1165 package agency, license, permit, or certificate under this title;

1166 (c) have an office, position, or relationship, or be engaged in a business or avocation  
1167 that interferes or is incompatible with the effective and objective fulfillment of the duties of  
1168 office or employment of the commissioner, director, or department employee for whom the  
1169 person is immediate family;

1170 (d) accept a gift, gratuity, emolument, or employment from:

1171 (i) a person who applies for or holds a package agency, license, permit, or certificate  
1172 under this title; or

1173 (ii) an officer, agent, or employee of a person who applies for or holds a package  
1174 agency, license, permit, or certificate under this title, except that an immediate family member

1175 may accept a gift from an officer, agent, or employee if the gift is equal to or less than \$50; or

1176 (e) solicit, suggest, request, or recommend, directly or indirectly, the appointment of  
1177 any person to any office or employment with a person who applies for or holds a package  
1178 agency, license, permit, or certificate under this title.

1179 (4) An officer, agent, attorney, or employee of a person who applies for or holds a  
1180 package agency, license, permit, or certificate under this title may not directly or indirectly  
1181 solicit, request, or recommend to the governor, any state senator, the commission, or the  
1182 department the appointment of any person:

1183 (a) as a commissioner;

1184 (b) as director of the department; or

1185 (c) to a department staff position.

1186 (5) (a) A commissioner shall disclose during a meeting of the commission a potential  
1187 violation of this section, including the existence and nature of a professional, financial,  
1188 business, or personal interest with a person who holds, or an applicant for, a license, permit, or  
1189 certificate issued under this title that may result in a violation of this section.

1190 (b) After a commissioner makes a disclosure under Subsection (5)(a):

1191 (i) the commission may, by motion, determine whether there is a potential violation of  
1192 this section;

1193 (ii) if the commission determines that there is a potential violation of this section:

1194 (A) the commission shall notify the governor; and

1195 (B) the commissioner may not vote on any matter that would result in the potential  
1196 violation of this section; and

1197 (iii) if the commission determines that there is not a potential violation of this section,  
1198 a commissioner may elect whether to vote on the issue that gives rise to the disclosure under  
1199 Subsection (5)(a).

1200 (c) The commission shall record any declaration of a potential violation of this section  
1201 in the minutes of the meeting.

1202 Section 12. Section **32B-2-305** is enacted to read:

1203 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

1204 (1) As used in this section:

1205 (a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

1206 (b) "Enforcement ratio" is as defined in Section 32B-1-201.

1207 (c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in  
1208 this section.

1209 (2) There is created a restricted special revenue fund known as the "Alcoholic  
1210 Beverage Control Act Enforcement Fund."

1211 (3) (a) The fund consists of:

1212 (i) deposits made under Subsection (4); and

1213 (ii) interest earned on the fund.

1214 (b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

1215 (4) After the deposit made under Section 32B-2-304, the department shall deposit 1%  
1216 of the total gross revenue from the sale of liquor with the state treasurer to be credited to the  
1217 fund to be used by the Department of Public Safety as provided in Subsection (5).

1218 (5) The Department of Public Safety shall expend money from the fund to supplement  
1219 appropriations by the Legislature so that the Department of Public Safety maintains a sufficient  
1220 number of alcohol-related law enforcement officers such that beginning on July 1, 2011, each  
1221 year the enforcement ratio as of July 1 is equal to or less than the number specified in Section  
1222 32B-1-201.

1223 Section 13. Section **32B-2-503 (Effective 07/01/11)** is amended to read:

1224 **32B-2-503 (Effective 07/01/11). Operational requirements for a state store.**

1225 (1) (a) A state store shall display in a prominent place in the store a sign in large letters  
1226 [stating: "~~Warning: Driving under the influence of alcohol or drugs is a serious crime that is~~  
1227 ~~prosecuted aggressively in Utah.~~"] that consists of text in the following order:

1228 (i) a header that reads: "WARNING";

1229 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
1230 can cause birth defects and permanent brain damage for the child.";

1231 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at  
1232 [insert most current toll-free number] with questions or for more information.";

1233 (iv) a header that reads: "WARNING"; and

1234 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
1235 serious crime that is prosecuted aggressively in Utah."

1236 (b) (i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different



1237 font style than the text described in Subsections (1)(a)(iv) and (v).

1238 (ii) The warning statements in the sign described in Subsection (1)(a) shall be in the  
1239 same font size.

1240 (c) The Department of Health shall work with the commission and department to  
1241 facilitate consistency in the format of a sign required under this section.

1242 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by  
1243 the commission.

1244 (3) A state store may not sell, offer for sale, or furnish liquor to:

1245 (a) a minor;

1246 (b) a person actually, apparently, or obviously intoxicated;

1247 (c) a known interdicted person; or

1248 (d) a known habitual drunkard.

1249 (4) (a) A state store employee may not:

1250 (i) consume an alcoholic product on the premises of a state store; or

1251 (ii) allow any person to consume an alcoholic product on the premises of a state store.

1252 (b) A violation of this Subsection (4) is a class B misdemeanor.

1253 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state  
1254 store, and a state store may not be kept open for the sale of liquor:

1255 (i) on Sunday; or

1256 (ii) on a state or federal legal holiday.

1257 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and  
1258 a state store may be open for the sale of liquor, only on a day and during hours that the  
1259 commission directs by rule or order.

1260 (6) (a) A minor may not be admitted into, or be on the premises of a state store unless  
1261 accompanied by a person who is:

1262 (i) 21 years of age or older; and

1263 (ii) the minor's parent, legal guardian, or spouse.

1264 (b) A state store employee that has reason to believe that a person who is on the  
1265 premises of a state store is under the age of 21 and is not accompanied by a person described in  
1266 Subsection (6)(a) may:

1267 (i) ask the suspected minor for proof of age;

1268 (ii) ask the person who accompanies the suspected minor for proof of age; and  
1269 (iii) ask the suspected minor or the person who accompanies the suspected minor for  
1270 proof of parental, guardianship, or spousal relationship.

1271 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the  
1272 person who accompanies the suspected minor into the state store if the suspected minor or  
1273 person fails to provide information specified in Subsection (6)(b).

1274 (d) A state store employee shall require a suspected minor and the person who  
1275 accompanies the suspected minor into the state store to immediately leave the premises of the  
1276 state store if the suspected minor or person fails to provide information specified in Subsection  
1277 (6)(b).

1278 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed  
1279 [package] container.

1280 (b) A person may not open a sealed [package] container on the premises of a state  
1281 store.

1282 (8) On or after October 1, 2011, a state store may not sell, offer for sale, or furnish  
1283 heavy beer in a sealed container that exceeds two liters.

1284 Section 14. Section **32B-2-504 (Effective 07/01/11)** is amended to read:

1285 **32B-2-504 (Effective 07/01/11). Delivery of liquor to state store.**

1286 (1) Liquor to be sold from a state store may be transported from a warehouse  
1287 authorized by the department to the state store if transported by a person authorized by the  
1288 department to transport the liquor to the state store, including a common carrier.

1289 (2) A person, while in or about a vehicle in which liquor is being transported, may not  
1290 open, break, or allow to be opened or broken, a [package] container containing liquor.

1291 (3) A person may not drink, use, or allow to be drunk or used, liquor while it is in  
1292 transit under this section.

1293 Section 15. Section **32B-2-602 (Effective 07/01/11)** is amended to read:

1294 **32B-2-602 (Effective 07/01/11). Application requirements for a package agency.**

1295 (1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed  
1296 [package] container on its premises under a package agency, the person shall first obtain a  
1297 package agency issued by the commission in accordance with this part.

1298 (2) To obtain a package agency, a person seeking to be the package agent under this

1299 part shall submit to the department:

1300 (a) a written application in a form prescribed by the department;

1301 (b) a nonrefundable application fee of [~~\$100~~] \$125;

1302 (c) written consent of the local authority;

1303 (d) evidence of proximity to any community location, with proximity requirements  
1304 being governed by Section 32B-1-202;

1305 (e) a bond as specified by Section 32B-2-604;

1306 (f) a floor plan of the premises, including a description and highlighting of that part of  
1307 the premises in which the person proposes that the package agency be located;

1308 (g) evidence that the package agency is carrying public liability insurance in an amount  
1309 and form satisfactory to the department;

1310 (h) a signed consent form stating that the package agent permits any authorized  
1311 representative of the commission, department, or any law enforcement officer to have  
1312 unrestricted right to enter the premises of the package agency;

1313 (i) if the person applying is an entity, verification that a person who signs the package  
1314 agency application is authorized to sign on behalf of the entity; and

1315 (j) any other information the commission or department may require.

1316 (3) The commission may not issue a package agency to a person who is disqualified  
1317 under Section 32B-1-304.

1318 (4) The commission may not issue a package agency for premises that do not meet the  
1319 proximity requirements of Section 32B-1-202.

1320 Section 16. Section **32B-2-605 (Effective 07/01/11)** is amended to read:

1321 **32B-2-605 (Effective 07/01/11). Operational requirements for package agency.**

1322 (1) (a) A person may not operate a package agency until a package agency agreement is  
1323 entered into by the package agent and the department.

1324 (b) A package agency agreement shall state the conditions of operation by which the  
1325 package agent and the department are bound.

1326 (c) (i) If a package agent or staff of the package agent violates this title, rules under this  
1327 title, or the package agency agreement, the department may take any action against the package  
1328 agent that is allowed by the package agency agreement.

1329 (ii) An action against a package agent is governed solely by its package agency

1330 agreement and may include suspension or revocation of the package agency.

1331 (iii) Notwithstanding that this part refers to "package agency" or "package agent," staff  
1332 of the package agency or package agent is subject to the same requirement or prohibition.

1333 (2) (a) A package agency shall be operated by an individual who is either:

1334 (i) the package agent; or

1335 (ii) an individual designated by the package agent.

1336 (b) An individual who is a designee under this Subsection (2) shall be:

1337 (i) an employee of the package agent; and

1338 (ii) responsible for the operation of the package agency.

1339 (c) The conduct of the designee is attributable to the package agent.

1340 (d) A package agent shall submit the name of the person operating the package agency  
1341 to the department for the department's approval.

1342 (e) A package agent shall state the name and title of a designee on the application for a  
1343 package agency.

1344 (f) A package agent shall:

1345 (i) inform the department of a proposed change in the individual designated to operate  
1346 a package agency; and

1347 (ii) receive prior approval from the department before implementing the change  
1348 described in this Subsection (2)(f).

1349 (g) Failure to comply with the requirements of this Subsection (2) may result in the  
1350 immediate termination of a package agency agreement.

1351 (3) ~~(a)~~ A package agent shall display in a prominent place in the package agency~~[-(a)]~~  
1352 the record issued by the commission that designates the package agency~~[-and]~~.

1353 (b) A package agent that displays or stores liquor at a location visible to the public  
1354 shall display in a prominent place in the package agency a sign in large letters [stating:  
1355 "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted  
1356 aggressively in Utah."] that consists of text in the following order:

1357 (i) a header that reads: "WARNING";

1358 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
1359 can cause birth defects and permanent brain damage for the child.";

1360 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at

- 1361 [insert most current toll-free number] with questions or for more information.";  
1362 (iv) a header that reads: "WARNING"; and  
1363 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
1364 serious crime that is prosecuted aggressively in Utah."  
1365 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different  
1366 font style than the text described in Subsections (3)(b)(iv) and (v).  
1367 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the  
1368 same font size.  
1369 (d) The Department of Health shall work with the commission and department to  
1370 facilitate consistency in the format of a sign required under this section.  
1371 (4) A package agency may not display liquor or a price list in a window or showcase  
1372 that is visible to passersby.  
1373 (5) (a) A package agency may not purchase liquor from a person except from the  
1374 department.  
1375 (b) At the discretion of the department, liquor may be provided by the department to a  
1376 package agency for sale on consignment.  
1377 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place  
1378 other than as designated in the package agent's application, unless the package agent first  
1379 applies for and receives approval from the department for a change of location within the  
1380 package agency premises.  
1381 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price  
1382 fixed by the commission.  
1383 (8) A package agency may not sell, offer for sale, or furnish liquor to:  
1384 (a) a minor;  
1385 (b) a person actually, apparently, or obviously intoxicated;  
1386 (c) a known interdicted person; or  
1387 (d) a known habitual drunkard.  
1388 (9) (a) A package agency may not employ a minor to handle liquor.  
1389 (b) (i) Staff of a package agency may not:  
1390 (A) consume an alcoholic product on the premises of a package agency; or  
1391 (B) allow any person to consume an alcoholic product on the premises of a package

1392 agency.

1393 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

1394 (10) (a) A package agency may not close or cease operation for a period longer than 72  
1395 hours, unless:

1396 (i) the package agency notifies the department in writing at least seven days before the  
1397 closing; and

1398 (ii) the closure or cessation of operation is first approved by the department.

1399 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package  
1400 agency shall immediately notify the department by telephone.

1401 (c) (i) The department may authorize a closure or cessation of operation for a period  
1402 not to exceed 60 days.

1403 (ii) The department may extend the initial period an additional 30 days upon written  
1404 request of the package agency and upon a showing of good cause.

1405 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1406 commission approval.

1407 (d) The notice required by Subsection (10)(a) shall include:

1408 (i) the dates of closure or cessation of operation;

1409 (ii) the reason for the closure or cessation of operation; and

1410 (iii) the date on which the package agency will reopen or resume operation.

1411 (e) Failure of a package agency to provide notice and to obtain department  
1412 authorization before closure or cessation of operation results in an automatic termination of the  
1413 package agency agreement effective immediately.

1414 (f) Failure of a package agency to reopen or resume operation by the approved date  
1415 results in an automatic termination of the package agency agreement effective on that date.

1416 (11) A package agency may not transfer its operations from one location to another  
1417 location without prior written approval of the commission.

1418 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,  
1419 exchange, barter, give, or attempt in any way to dispose of the package agency to another  
1420 person, whether for monetary gain or not.

1421 (b) A package agency has no monetary value for any type of disposition.

1422 (13) (a) Subject to the other provisions of this Subsection (13):

- 1423 (i) sale or delivery of liquor may not be made on or from the premises of a package  
 1424 agency, and a package agency may not be kept open for the sale of liquor:
- 1425 (A) on Sunday; or  
 1426 (B) on a state or federal legal holiday.
- 1427 (ii) Sale or delivery of liquor may be made on or from the premises of a package  
 1428 agency, and a package agency may be open for the sale of liquor, only on a day and during  
 1429 hours that the commission directs by rule or order.
- 1430 ~~[(b) Subsection (13)(a) governs unless:]~~
- 1431 (b) A package agency located at a manufacturing facility is not subject to Subsection  
 1432 (13)(a) if:
- 1433 (i) the package agency is located at a [winery] manufacturing facility licensed in  
 1434 accordance with Chapter 11, Manufacturing and Related Licenses Act;
- 1435 (ii) the [winery] manufacturing facility licensed in accordance with Chapter 11,  
 1436 Manufacturing and Related Licenses Act, holds:
- 1437 (A) a full-service restaurant license; ~~or~~  
 1438 (B) a limited-service restaurant license; or  
 1439 (C) a beer-only restaurant license;
- 1440 (iii) the restaurant is located at the [winery] manufacturing facility;
- 1441 (iv) the restaurant sells [wines] an alcoholic product produced at the [winery]  
 1442 manufacturing facility;
- 1443 (v) the [winery] manufacturing facility:
- 1444 (A) owns the restaurant; or  
 1445 (B) operates the restaurant;
- 1446 (vi) the package agency only sells [wine] an alcoholic product produced at the [winery]  
 1447 manufacturing facility; and
- 1448 (vii) the package agency's days and hours of sale are the same as the days and hours of  
 1449 sale at the restaurant.
- 1450 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if  
 1451 the package agent that holds the package agency to sell liquor at the resort does not sell liquor  
 1452 in a manner similar to a state store.
- 1453 (ii) The commission may by rule define what constitutes a package agency that sells

1454 liquor "in a manner similar to a state store."

1455 (14) (a) Except to the extent authorized by commission rule, a minor may not be  
1456 admitted into, or be on the premises of a package agency unless accompanied by a person who  
1457 is:

- 1458 (i) 21 years of age or older; and
- 1459 (ii) the minor's parent, legal guardian, or spouse.

1460 (b) A package agent or staff of a package agency that has reason to believe that a  
1461 person who is on the premises of a package agency is under the age of 21 and is not  
1462 accompanied by a person described in Subsection (14)(a) may:

- 1463 (i) ask the suspected minor for proof of age;
- 1464 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 1465 (iii) ask the suspected minor or the person who accompanies the suspected minor for  
1466 proof of parental, guardianship, or spousal relationship.

1467 (c) A package agent or staff of a package agency shall refuse to sell liquor to the  
1468 suspected minor and to the person who accompanies the suspected minor into the package  
1469 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1470 (d) A package agent or staff of a package agency shall require the suspected minor and  
1471 the person who accompanies the suspected minor into the package agency to immediately leave  
1472 the premises of the package agency if the minor or person fails to provide information specified  
1473 in Subsection (14)(b).

1474 (15) (a) A package agency ~~may not~~ shall sell, offer for sale, or furnish liquor ~~except~~  
1475 in a sealed ~~package~~ container.

1476 (b) A person may not open a sealed ~~package~~ container on the premises of a package  
1477 agency.

1478 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or  
1479 furnish liquor in other than a sealed container:

1480 (i) if the package agency is the type of package agency that authorizes the package  
1481 agency to sell, offer for sale, or furnish the liquor as part of room service;

1482 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1483 (iii) subject to:

1484 (A) staff of the package agency providing the liquor in person only to an adult guest in



1485 the guest room;

1486 (B) staff of the package agency not leaving the liquor outside a guest room for retrieval  
1487 by a guest; and

1488 (C) the same limits on the portions in which an alcoholic product may be sold by a  
1489 retail licensee under Section 32B-5-304.

1490 (16) On or after October 1, 2011, a package agency may not sell, offer for sale, or  
1491 furnish heavy beer in a sealed container that exceeds two liters.

1492 [~~16~~] (17) The department may pay or otherwise remunerate a package agent on any  
1493 basis, including sales or volume of business done by the package agency.

1494 [~~17~~] (18) The commission may prescribe by policy or rule general operational  
1495 requirements of a package agency that are consistent with this title and relate to:

1496 (a) physical facilities;

1497 (b) conditions of operation;

1498 (c) hours of operation;

1499 (d) inventory levels;

1500 (e) payment schedules;

1501 (f) methods of payment;

1502 (g) premises security; and

1503 (h) any other matter considered appropriate by the commission.

1504 Section 17. Section **32B-2-606 (Effective 07/01/11)** is amended to read:

1505 **32B-2-606 (Effective 07/01/11). Delivery of liquor to package agency.**

1506 (1) Liquor to be sold from a package agency may be transported from a warehouse or  
1507 state store authorized by the department to the package agency if transported by a person  
1508 authorized by the department to transport the liquor to the package agency, including a  
1509 common carrier.

1510 (2) A person, while in or about a vehicle in which liquor is being transported, may not  
1511 open, break, or allow to be opened or broken, a [~~package~~] container containing liquor.

1512 (3) A person may not drink, use, or allow to be drunk or used, any liquor while the  
1513 liquor is in transit under this section.

1514 Section 18. Section **32B-4-203 (Effective 07/01/11)** is amended to read:

1515 **32B-4-203 (Effective 07/01/11). Authority to inspect.**

1516 (1) (a) This Subsection (1) applies to:

1517 (i) a commissioner;

1518 (ii) an authorized representative of the commission or department; or

1519 (iii) a law enforcement or peace officer.

1520 (b) An individual described in Subsection (1)(a):

1521 (i) shall be given access, ingress, and egress to and from premises or a conveyance  
1522 used in the storage, sale, furnishing, manufacture, or transportation of an alcoholic product;

1523 (ii) may open a ~~[package]~~ container containing, or supposed to contain, an article sold,  
1524 or exposed for sale, held in possession, or manufactured with intent to sell in violation of this  
1525 title or commission rules; and

1526 (iii) may inspect the contents and take samples of the contents for analysis from a  
1527 ~~[package]~~ container described in this Subsection (1).

1528 (2) The following shall assist, when requested by a person described in Subsection (1),  
1529 in tracing, finding, or discovering the presence of an article prohibited by this title or  
1530 commission rules to the extent assistance would not infringe upon the person's federal and state  
1531 constitutional rights:

1532 (a) a dealer;

1533 (b) a clerk;

1534 (c) a bookkeeper;

1535 (d) an express agent;

1536 (e) a railroad or airline official;

1537 (f) a common or other carrier; and

1538 (g) an employee of a person listed in this Subsection (2).

1539 Section 19. Section **32B-4-206 (Effective 07/01/11)** is amended to read:

1540 **32B-4-206 (Effective 07/01/11). Searches, seizures, forfeitures, and fines.**

1541 (1) The following are subject to forfeiture pursuant to Title 24, Chapter 1, Utah  
1542 Uniform Forfeiture Procedures Act:

1543 (a) an alcoholic product possessed, purchased, used, stored, sold, offered for sale,  
1544 furnished, given, received, warehoused, manufactured, distributed, shipped, carried,  
1545 transported, or adulterated in violation of this title or commission rules;

1546 (b) a ~~[package]~~ container or property used or intended for use as a ~~[package]~~ container

1547 for an alcoholic product in violation of this title or commission rules;

1548 (c) raw materials, products, and equipment used, or intended for use, in manufacturing,  
1549 processing, delivering, importing, exporting, or adulterating an alcoholic product in violation  
1550 of this title or commission rules;

1551 (d) implements, furniture, fixtures, or other personal property used or kept for a  
1552 violation of this title or commission rules;

1553 (e) conveyances including an aircraft, vehicle, or vessel used or intended for use, to  
1554 transport or in any manner facilitate the transportation, sale, receipt, possession, or  
1555 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

1556 (f) a record used or intended for use in violation of this title or commission rules.

1557 (2) (a) Property subject to forfeiture under this title may be seized by a peace officer of  
1558 this state or any other person authorized by law upon process issued by a court having  
1559 jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure relating  
1560 to search warrants or administrative warrants.

1561 (b) Notwithstanding Subsection (2)(a), seizure without process may be made when:

1562 (i) the seizure is incident to an arrest or search under a search warrant or an inspection  
1563 under an administrative inspection warrant;

1564 (ii) the property subject to seizure has been the subject of a prior judgment in favor of  
1565 the state in a criminal injunction or forfeiture proceeding under this title;

1566 (iii) the peace officer or other person authorized by law has probable cause to believe  
1567 that the property is directly or indirectly dangerous to health or safety; or

1568 (iv) the peace officer or other person authorized by law has probable cause to believe  
1569 that the property is being or has been used, intended to be used, held, or kept in violation of this  
1570 title or commission rules.

1571 (3) If property is seized pursuant to a search or administrative warrant, a peace officer  
1572 or other person authorized by law shall comply with the requirements of the Utah Rules of  
1573 Criminal Procedure.

1574 (4) (a) If property is seized without process:

1575 (i) the peace officer or other person authorized by law shall make a return of the peace  
1576 officer's or person's acts without delay directly to the district court of the county in which the  
1577 property was located; and

- 1578 (ii) the district court shall have jurisdiction of the case.
- 1579 (b) A return shall describe:
- 1580 (i) the property seized;
- 1581 (ii) the place where the property is seized; and
- 1582 (iii) any person in apparent possession of the property.
- 1583 (c) A peace officer or other person described in Subsection (4)(a) shall promptly:
- 1584 (i) deliver a written inventory of anything seized to any person in apparent authority at
- 1585 the premises where the seizure is made; or
- 1586 (ii) post a written inventory of anything seized in a conspicuous place at the premises.
- 1587 (d) A written inventory under this Subsection (4) shall state the place where the
- 1588 property is being held.
- 1589 (5) Property taken or detained under this section is not repleviable but is considered in
- 1590 custody of the law enforcement agency making the seizure subject only to the orders of the
- 1591 court or the official having jurisdiction. When property is seized under this title, the
- 1592 appropriate person or agency may:
- 1593 (a) place the property under seal;
- 1594 (b) remove the property to a place designated by:
- 1595 (i) the person or agency; or
- 1596 (ii) the warrant under which the property is seized; or
- 1597 (c) take custody of the property and remove the property to an appropriate location for
- 1598 disposition in accordance with law.
- 1599 (6) When property is subject to forfeiture under this section, a proceeding shall be
- 1600 instituted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.
- 1601 (7) When property is ordered forfeited under Title 24, Chapter 1, Utah Uniform
- 1602 Forfeiture Procedures Act, by a finding of a court that no person is entitled to recover the
- 1603 property, the property, if an alcohol [~~package~~] container or product used as a [~~package~~]
- 1604 container for an alcoholic product, shall be disposed of as follows:
- 1605 (a) An alcoholic product shall be sold in accordance with Section 24-1-17 if the
- 1606 alcoholic product is:
- 1607 (i) unadulterated, pure, and free from crude, unrectified, or impure form of ethylic
- 1608 alcohol, or any other deleterious substance or liquid; and

1609 (ii) otherwise in saleable condition.

1610 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, the  
1611 department shall destroy the alcoholic product and its [~~package~~] container under competent  
1612 supervision.

1613 (8) Except when otherwise provided, a fine or forfeiture levied under this title shall be  
1614 paid to the county treasurer of the county in which the prosecution occurred.

1615 Section 20. Section **32B-4-208 (Effective 07/01/11)** is amended to read:

1616 **32B-4-208 (Effective 07/01/11). Nuisances.**

1617 (1) As used in this section, "nuisance" means:

1618 (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other  
1619 conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold,  
1620 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,  
1621 carried, transported, or adulterated in violation of this title; or

1622 (b) an alcoholic product, [~~package~~] container, equipment, or other property kept or  
1623 used in maintaining an item or property described in Subsection (1)(a).

1624 (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B  
1625 misdemeanor.

1626 (3) If a person has knowledge that, or has reason to believe that the person's room,  
1627 house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or  
1628 used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is  
1629 subject to a lien for and may be sold to pay the fines and costs assessed against the person  
1630 guilty of the common nuisance. This lien may be enforced by action in a court having  
1631 jurisdiction.

1632 (4) (a) The department shall bring an action to abate a nuisance in the name of the  
1633 department in a court having jurisdiction.

1634 (b) An action brought under this Subsection (4) is an action in equity.

1635 (c) The department may not be required to post a bond to initiate an action under this  
1636 Subsection (4).

1637 (d) A court may issue:

1638 (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the  
1639 defendant from conducting or permitting the continuance of the nuisance until the conclusion

1640 of the trial; and

1641 (ii) an order restraining the defendant and any other person from removing or  
1642 interfering with an alcoholic product, [~~package~~] container, equipment, or other property kept or  
1643 used in violation of this title or commission rules.

1644 (e) In an action to abate or enjoin a nuisance, the court need not find that the property  
1645 involved is being unlawfully used at the time of the hearing.

1646 (f) On finding that a material allegation of a petition or complaint is true, the court  
1647 shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold,  
1648 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,  
1649 carried, transported, or adulterated, in any portion of the room, house, building, structure,  
1650 place, aircraft, vehicle, vessel, or other conveyance.

1651 (g) Upon judgment of a court ordering abatement of the nuisance, the court may order  
1652 that the premises or conveyance in question may not be occupied or used for any purpose for  
1653 one year, except under Subsection (4)(h).

1654 (h) A court may permit premises or conveyance described in Subsection (4)(g) to be  
1655 occupied or used:

1656 (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with  
1657 sufficient surety, approved by the court, payable to the state;

1658 (ii) on the condition that an alcoholic product will not be present in or on the premises  
1659 or the conveyance; and

1660 (iii) on the condition that payment of the fines, costs, and damages assessed for  
1661 violation of this title or commission rules will be made.

1662 (5) If a tenant of the premises uses the premises or any part of the premises in  
1663 maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to  
1664 possession reverts to the owner or lessor who is entitled to the remedy provided by law for  
1665 forcible detention of the premises.

1666 (6) A person is guilty of assisting in maintaining a nuisance as provided in Section  
1667 76-10-804, if that person:

1668 (a) knowingly permits a building or premises owned or leased by the person, or under  
1669 the person's control, or any part of a building or premises, to be used in maintaining a nuisance;  
1670 or

1671 (b) after being notified in writing by a prosecutor or other citizen of the unlawful use,  
1672 fails to take all proper measures to:

1673 (i) abate the nuisance; or

1674 (ii) remove the one or more persons from the premises.

1675 Section 21. Section **32B-4-406 (Effective 07/01/11)** is amended to read:

1676 **32B-4-406 (Effective 07/01/11). Unlawful sale, offer for sale, or furnishing of an**  
1677 **alcoholic product.**

1678 (1) Except as provided in Subsection (2):

1679 (a) a person may not sell, offer for sale, or furnish beer to the general public in a  
1680 [~~package~~] container that exceeds two liters; and

1681 (b) a person may not purchase or possess beer in a [~~package~~] container that exceeds  
1682 two liters.

1683 (2) (a) A retail licensee may sell, offer for sale, or furnish beer on draft subject to the  
1684 requirements of Section 32B-5-304.

1685 (b) A retail licensee may purchase or possess beer in a [~~package~~] container that exceeds  
1686 two liters to be dispensed on draft for consumption subject to the requirements of Section  
1687 32B-5-304.

1688 (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer in a [~~package~~]  
1689 container that exceeds two liters to a retail licensee described in Subsection (2)(a).

1690 (3) On or after October 1, 2011:

1691 (a) A person may not sell, offer for sale, or furnish heavy beer in a container that  
1692 exceeds two liters.

1693 (b) A person may not purchase or possess heavy beer in a container that exceeds two  
1694 liters.

1695 Section 22. Section **32B-4-420 (Effective 07/01/11)** is amended to read:

1696 **32B-4-420 (Effective 07/01/11). Unlawful adulteration.**

1697 (1) For purposes of this section, "tamper" means to do one or more of the following to  
1698 the contents of a [~~package~~] container:

1699 (a) fortify;

1700 (b) adulterate;

1701 (c) contaminate;

- 1702 (d) dilute;
- 1703 (e) change its character or purity; or
- 1704 (f) otherwise change.
- 1705 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
- 1706 product sold or supplied by the person as a beverage any of the following:
- 1707 (a) a drug;
- 1708 (b) methylic alcohol;
- 1709 (c) a crude, unrectified, or impure form of ethylic alcohol; or
- 1710 (d) another deleterious substance.
- 1711 (3) (a) The following may not engage in an act listed in Subsection (3)(b):
- 1712 (i) a package agent;
- 1713 (ii) a retail licensee;
- 1714 (iii) a permittee;
- 1715 (iv) a beer wholesaler licensee;
- 1716 (v) a liquor warehouser licensee;
- 1717 (vi) a supplier; or
- 1718 (vii) an importer.
- 1719 (b) A person listed in Subsection (3)(a) may not:
- 1720 (i) tamper with the contents of a [~~package~~] container of alcoholic product as originally
- 1721 marketed by a manufacturer;
- 1722 (ii) refill or partly refill with any substance the contents of an original [~~package~~]
- 1723 container of alcoholic product as originally marketed by a manufacturer;
- 1724 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or
- 1725 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a
- 1726 purchaser without first advising the purchaser of the difference.
- 1727 Section 23. Section **32B-4-705 (Effective 07/01/11)** is amended to read:
- 1728 **32B-4-705 (Effective 07/01/11). Exclusions from tied house prohibitions.**
- 1729 (1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by an
- 1730 industry member to a retailer under the conditions and within the limitations prescribed in:
- 1731 (a) this section; and
- 1732 (b) the applicable federal laws cited in this section.



- 1733 (2) The following may be furnished by an industry member:
- 1734 (a) a product display as provided in 27 C.F.R. Sec. 6.83;
- 1735 (b) point of sale advertising material or a consumer advertising specialty as provided in  
1736 27 C.F.R. Sec. 6.84;
- 1737 (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;
- 1738 (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;
- 1739 (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;
- 1740 (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;
- 1741 (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;
- 1742 (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;
- 1743 (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
- 1744 (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and
- 1745 (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.
- 1746 (3) The following exceptions provided in federal law are not applicable:
- 1747 (a) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;
- 1748 (b) the exception for a consumer tasting or sampling at a retail establishment as  
1749 provided in 27 C.F.R. Sec. 6.95; and
- 1750 (c) the exception for participation in a retailer association activity provided in 27  
1751 C.F.R. Sec. 6.100.
- 1752 (4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall maintain  
1753 a record:
- 1754 (a) of an item furnished to a retailer;
- 1755 (b) on the premises of the industry member; and
- 1756 (c) for a three-year period.
- 1757 (5) A sample of liquor may be provided to the department under the following  
1758 conditions:
- 1759 (a) With the department's permission, an industry member may submit a department  
1760 sample to the department for product testing, analysis, and sampling.
- 1761 (b) No more than two department samples of a particular type, vintage, and production  
1762 lot of a particular branded product may be submitted to the department for department testing,  
1763 analysis, and sampling within a consecutive 120-day period.

- 1764 (c) (i) A department sample may not exceed 1 liter.
- 1765 (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may  
1766 not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a  
1767 larger size, not to exceed 5 liters:
- 1768 (A) wine;
- 1769 (B) heavy beer; or
- 1770 (C) a flavored malt beverage.
- 1771 (d) A department sample submitted to the department:
- 1772 (i) shall be shipped prepaid by the industry member by common carrier; and
- 1773 (ii) may not be shipped by United States mail directly to the department's central  
1774 administrative warehouse office.
- 1775 (e) A department sample may not be shipped to any other location within the state.
- 1776 (f) The industry member shall submit with a department sample submitted to the  
1777 department a letter from the industry member that clearly:
- 1778 (i) identifies the product as a "department sample"; and
- 1779 (ii) states the FOB case price of the product.
- 1780 (g) (i) The department may transfer a listed item from current stock:
- 1781 (A) for use as a comparison control sample; or
- 1782 (B) to verify product spoilage as considered appropriate.
- 1783 (ii) The department shall charge back a sample transferred under this Subsection (5)(g)  
1784 to the respective industry member.
- 1785 (h) The department shall:
- 1786 (i) account for, label, and record a department sample received or transferred;
- 1787 (ii) account for the department sample's disposition; and
- 1788 (iii) maintain a record of the sample and its disposition for a two-year period.
- 1789 (i) The department shall affix to each [~~package~~] container of a department sample a  
1790 label clearly identifying the product as a "department sample."
- 1791 (j) The department shall dispose of a department sample delivered to the department or  
1792 transferred from the department's current stock in one of the following ways as chosen by the  
1793 department:
- 1794 (i) test and analyze the department sample, with the remaining contents destroyed

1795 under controlled and audited conditions established by the department;

1796 (ii) destroy the entire contents of the department sample under controlled and audited  
1797 conditions established by the department; or

1798 (iii) add the department sample to the inventory of the department for sale to the  
1799 public.

1800 (k) A person other than an authorized department official may not be in possession of a  
1801 department sample except as otherwise provided.

1802 (l) The department shall handle a liquor item received by the department from a  
1803 supplier that is not designated as a sample by the supplier, but that is an item not specifically  
1804 listed on a department purchase order, in accordance with this Subsection (5).

1805 (m) The department may not use its money to pay freight or charges on a sample or a  
1806 liquor item:

1807 (i) shipped to the department by a supplier; and

1808 (ii) not listed on a department purchase order.

1809 (6) A sample of beer may be provided by a beer industry member to a retailer under the  
1810 conditions listed in this Subsection (6).

1811 (a) A sample of beer may be provided by an industry member only to a retailer who has  
1812 not purchased the brand of beer from that industry member within the last 12 months.

1813 (b) For each retailer, the industry member may give not more than three gallons of any  
1814 brand of beer, except that if a particular product is not available in a size within the quantity  
1815 limitation, an industry member may furnish the next largest size.

1816 (7) An educational seminar may involve an industry member under the conditions  
1817 listed in this Subsection (7).

1818 (a) An industry member may provide or participate in an educational seminar:

1819 (i) involving:

1820 (A) the department;

1821 (B) a retailer;

1822 (C) a holder of a scientific or educational special use permit;

1823 (D) another industry member; or

1824 (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and

1825 (ii) regarding a topic such as:

- 1826 (A) merchandising and product knowledge;
- 1827 (B) use of equipment; and
- 1828 (C) a tour of an alcoholic product manufacturing facility.
- 1829 (b) An industry member may not pay the expenses of or compensate a person who is a
- 1830 department employee, a retailer, or a permittee for attending a seminar or tour described in
- 1831 Subsection (7)(a).
- 1832 (8) (a) A liquor industry member may conduct a tasting of a liquor product of the
- 1833 industry member:
- 1834 (i) for the department, at the department's request; and
- 1835 (ii) for a licensed industry representative, but only at the department's central
- 1836 administrative warehouse office.
- 1837 (b) A liquor industry member may only use a department sample or industry
- 1838 representative sample when conducting a tasting of the industry member's liquor product.
- 1839 (c) A beer industry member may conduct a tasting of a beer product for a beer retailer
- 1840 either at:
- 1841 (i) the industry member's premises; or
- 1842 (ii) a retail establishment.
- 1843 (d) Except to the extent authorized by commission rule, an alcoholic product industry
- 1844 member may not conduct tasting or sampling activities with:
- 1845 (i) a retailer; or
- 1846 (ii) a member of the general public.
- 1847 (9) A beer industry member may participate in a beer retailer association activity to the
- 1848 extent authorized by 27 C.F.R. Sec. 6.100.
- 1849 (10) (a) An industry member may contribute to a charitable, civic, religious, fraternal,
- 1850 educational, or community activity, except the contribution may not be given to influence a
- 1851 retailer in the selection of a product that may be sold at the activity.
- 1852 (b) An industry member or retailer violates this Subsection (10) if:
- 1853 (i) the industry member's contribution influences, directly or indirectly, the retailer in
- 1854 the selection of a product; and
- 1855 (ii) a competitor's product is excluded in whole or in part from sale at the activity.
- 1856 (11) (a) An industry member may lease or furnish equipment listed in Subsection

- 1857 (11)(b) to a retailer if:
- 1858 (i) the equipment is leased or furnished for a special event;
  - 1859 (ii) a reasonable rental or service fee is charged for the equipment; and
  - 1860 (iii) the period for which the equipment is leased or furnished does not exceed 30 days.
- 1861 (b) This Subsection (11) applies to the following equipment:
- 1862 (i) a picnic pump;
  - 1863 (ii) a cold plate;
  - 1864 (iii) a tub;
  - 1865 (iv) a keg box;
  - 1866 (v) a refrigerated trailer;
  - 1867 (vi) a refrigerated van; or
  - 1868 (vii) a refrigerated draft system.
- 1869 (12) (a) A liquor industry member may assist the department in:
- 1870 (i) ordering, shipping, and delivering merchandise;
  - 1871 (ii) new product notification;
  - 1872 (iii) listing and delisting information;
  - 1873 (iv) price quotations;
  - 1874 (v) product sales analysis;
  - 1875 (vi) shelf management; and
  - 1876 (vii) an educational seminar.
- 1877 (b) (i) A liquor industry member may, to acquire a new listing:
- 1878 (A) solicit an order from the department; and
  - 1879 (B) submit to the department a sample of the liquor industry member's products under
- 1880 Subsection (5) and price lists.
- 1881 (ii) (A) An industry member is confined to the customer areas when the industry
  - 1882 member visits a state store or package agency unless otherwise approved.
  - 1883 (B) An industry member is confined to the office area of a state warehouse when the
  - 1884 industry member visits a state warehouse unless otherwise approved.
- 1885 (13) A beer industry member may assist a beer retailer in:
- 1886 (a) ordering, shipping, and delivering beer merchandise;
  - 1887 (b) new product notification;

1888 (c) listing and delisting information;

1889 (d) price quotations;

1890 (e) product sales analysis;

1891 (f) shelf management; and

1892 (g) an educational seminar.

1893 (14) A beer industry member may, to acquire a new listing:

1894 (a) solicit an order from a beer retailer; and

1895 (b) submit to a beer retailer a sample of the beer industry member's beer products under

1896 Subsection (5) and price lists.

1897 Section 24. Section **32B-5-301 (Effective 07/01/11)** is amended to read:

1898 **32B-5-301 (Effective 07/01/11). General operational requirements.**

1899 (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the  
1900 rules of the commission, including the relevant part under Chapter 6, Specific Retail License  
1901 Act, for the specific type of retail license.

1902 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
1903 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1904 (i) a retail licensee;

1905 (ii) individual staff of a retail licensee; or

1906 (iii) both a retail licensee and staff of the retail licensee.

1907 (2) (a) If there is a conflict between this part and the relevant part under Chapter 6,  
1908 Specific Retail License Act, for the specific type of retail license, the relevant part under  
1909 Chapter 6 governs.

1910 (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail  
1911 licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product  
1912 specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

1913 (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail  
1914 License Act, refers to "retail licensee," staff of the retail licensee is subject to the same  
1915 requirement or prohibition.

1916 (3) (a) A retail licensee shall display in a prominent place in the licensed premises[  
1917 (a)] the retail license that is issued by the department[~~;~~ and].

1918 (b) A retail licensee shall display in a prominent place a sign in large letters [~~stating:~~

1919 ~~"Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted~~  
1920 ~~aggressively in Utah."~~] that consists of text in the following order:

1921 (i) a header that reads: "WARNING";

1922 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
1923 can cause birth defects and permanent brain damage for the child.";

1924 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at  
1925 [insert most current toll-free number] with questions or for more information.";

1926 (iv) a header that reads: "WARNING"; and

1927 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
1928 serious crime that is prosecuted aggressively in Utah."

1929 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different  
1930 font style than the text described in Subsections (3)(b)(iv) and (v).

1931 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the  
1932 same font size.

1933 (d) The Department of Health shall work with the commission and department to  
1934 facilitate consistency in the format of a sign required under this section.

1935 (4) A retail licensee may not on the licensed premises:

1936 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
1937 Chapter 10, Part 11, Gambling;

1938 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
1939 Part 11, Gambling; or

1940 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
1941 the risking of something of value for a return or for an outcome when the return or outcome is  
1942 based upon an element of chance, excluding the playing of an amusement device that confers  
1943 only an immediate and unrecorded right of replay not exchangeable for value.

1944 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in  
1945 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug  
1946 Paraphernalia Act:

1947 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
1948 58-37-2; or

1949 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in

1950 Section 58-37a-3.

1951 (6) Upon the presentation of credentials, at any time during which a retail licensee is  
1952 open for the transaction of business, the retail licensee shall immediately:

1953 (a) admit a commissioner, authorized department employee, or law enforcement officer  
1954 to the retail licensee's premises; and

1955 (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to  
1956 inspect completely:

1957 (i) the entire premises of the retail licensee; and

1958 (ii) the records of the retail licensee.

1959 (7) An individual may not consume an alcoholic product on the licensed premises of a  
1960 retail licensee on any day during the period:

1961 (a) beginning one hour after the time of day that the period during which a retail  
1962 licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises  
1963 begins; and

1964 (b) ending at the time specified in the relevant part under Chapter 6, Specific Retail  
1965 License Act, for the type of retail license when the retail licensee may first sell, offer for sale,  
1966 or furnish an alcoholic product on the licensed premises on that day.

1967 Section 25. Section **32B-5-304 (Effective 07/01/11)** is amended to read:

1968 **32B-5-304 (Effective 07/01/11). Portions in which alcoholic product may be sold.**

1969 (1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only  
1970 in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated  
1971 metered dispensing system approved by the department in accordance with commission rules  
1972 adopted under this title, except that:

1973 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1974 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1975 requirements:

1976 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1977 a primary spirituous liquor;

1978 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1979 (iii) the retail licensee shall designate a location where flavorings are stored on the  
1980 floor plan submitted to the department; and



- 1981 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";
- 1982 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
- 1983 system if used:
- 1984 (i) as a flavoring on a dessert; and
- 1985 (ii) in the preparation of a flaming food dish, drink, or dessert; and
- 1986 (c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.
- 1987 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
- 1988 individual portion that does not exceed 5 ounces per glass or individual portion.
- 1989 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
- 1990 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.
- 1991 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a ~~[package]~~ container
- 1992 not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.
- 1993 (ii) A retail licensee may sell, offer for sale, or furnish wine in a ~~[package]~~ container
- 1994 not to exceed 750 milliliters at a price fixed by the commission to a table of less than four
- 1995 persons.
- 1996 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original
- 1997 ~~[package]~~ container at a price fixed by the commission, except that the original ~~[package]~~
- 1998 container may not exceed one liter.
- 1999 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
- 2000 original ~~[package]~~ container at a price fixed by the commission, except that the original
- 2001 ~~[package]~~ container may not exceed one liter.
- 2002 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
- 2003 beer for on-premise consumption:
- 2004 (i) in an open original ~~[package]~~ container; and
- 2005 (ii) in a ~~[package]~~ container on draft.
- 2006 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):
- 2007 (i) in a size of ~~[package]~~ container that exceeds two liters; or
- 2008 (ii) to an individual patron in a size of ~~[package]~~ container that exceeds one liter.
- 2009 Section 26. Section **32B-5-307 (Effective 07/01/11)** is amended to read:
- 2010 **32B-5-307 (Effective 07/01/11). Bringing onto or removing alcoholic product**
- 2011 **from premises.**

2012 (1) Except as provided in Subsection (3):

2013 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic  
2014 product for on-premise consumption.

2015 (b) A retail licensee may not allow a person to:

2016 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

2017 (ii) consume an alcoholic product brought onto the licensed premises by a person other  
2018 than the retail licensee.

2019 (2) Except as provided in Subsection (3):

2020 (a) A person may not carry from a licensed premises of a retail licensee an open  
2021 [package] container that:

2022 (i) is used primarily for drinking purposes; and

2023 (ii) contains an alcoholic product.

2024 (b) A retail licensee may not permit a patron to carry from the licensed premises an  
2025 open [package] container described in Subsection (2)(a).

2026 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for  
2027 on-premise consumption if:

2028 (i) permitted by the retail licensee; and

2029 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

2030 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the  
2031 patron shall deliver the bottled wine to a server or other representative of the retail licensee  
2032 upon entering the licensed premises.

2033 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a  
2034 wine service for a bottled wine carried onto the licensed premises in accordance with this  
2035 Subsection (3).

2036 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle  
2037 of wine purchased in the licensed premises, or brought onto the licensed premises in  
2038 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

2039 Section 27. Section **32B-5-309 (Effective 07/01/11)** is amended to read:

2040 **32B-5-309 (Effective 07/01/11). Ceasing operation.**

2041 (1) [~~(a)~~] Except as provided in Subsection [~~(1)~~]~~(h)~~ (8), a retail licensee may not close  
2042 or cease operation for a period longer than 240 hours, unless:

2043            [(i)] (a) the retail licensee notifies the department in writing at least seven days before  
 2044 the day on which the retail licensee closes or ceases operation; and

2045            [(ii)] (b) the closure or cessation of operation is first approved by the department.

2046            [(b)] (2) Notwithstanding Subsection (1)[(a)], in the case of emergency closure, a retail  
 2047 licensee shall immediately notify the department by telephone.

2048            [(e)-(i)] (3) (a) The department may authorize a closure or cessation of operation of a  
 2049 retail licensee for a period not to exceed 60 days.

2050            [(i)] (b) The department may extend the initial period an additional 30 days upon:

2051            [(A)] (i) written request of the retail licensee; and

2052            [(B)] (ii) a showing of good cause.

2053            [(d)] (4) A closure or cessation of operation may not exceed a total of 90 days without  
 2054 commission approval.

2055            [(e)] (5) A notice required under this [~~Subsection (1)~~] section shall include:

2056            [(i)] (a) the dates of closure or cessation of operation;

2057            [(ii)] (b) the reason for the closure or cessation of operation; and

2058            [(iii)] (c) the date on which the retail licensee will reopen or resume operation.

2059            [(f)] (6) Failure of a retail licensee to provide notice and to obtain department approval  
 2060 before closure or cessation of operation results in an automatic forfeiture of:

2061            [(i)] (a) the retail license; and

2062            [(ii)] (b) the unused portion of the retail license fee for the remainder of the retail  
 2063 license year effective immediately.

2064            [(g)] (7) Failure of a retail licensee to reopen or resume operation by the approved date  
 2065 results in an automatic forfeiture of:

2066            [(i)] (a) the retail license; and

2067            [(ii)] (b) the unused portion of the retail license fee for the remainder of the retail  
 2068 license year.

2069            [~~(h) This Subsection (1)~~]

2070            (8) This section does not apply to:

2071            [(i)] (a) an on-premise beer retailer who is not a tavern; or

2072            [(ii)] (b) an airport lounge licensee.

2073            [(2) A retail licensee may not transfer a retail license from one location to another

2074 location, without prior written approval of the commission.]

2075 [~~(3) (a) A person, having been issued a retail license may not sell, transfer, assign,~~  
2076 ~~exchange, barter, give, or attempt in any way to dispose of the retail license to another person~~  
2077 ~~whether for monetary gain or not.]~~

2078 [~~(b) A retail license has no monetary value for any type of disposition.]~~

2079 Section 28. Section **32B-6-102 (Effective 07/01/11)** is amended to read:

2080 **32B-6-102 (Effective 07/01/11). Definitions.**

2081 [~~As used in this chapter:~~

2082 [~~(1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a~~  
2083 ~~full-service restaurant licensee or limited-service restaurant licensee that:]~~

2084 [~~(i) as of May 11, 2009, has:]~~

2085 [~~(A) patron seating at the bar structure;~~

2086 [~~(B) a partition at one or more locations on the bar structure that is along:]~~

2087 [~~(F) the width of the bar structure; or]~~

2088 [~~(H) the length of the bar structure; and]~~

2089 [~~(C) facilities for the dispensing or storage of an alcoholic product:]~~

2090 [~~(I) on the portion of the bar structure that is separated by the partition described in~~  
2091 ~~Subsection (1)(a)(i)(B); or]~~

2092 [~~(H) if the partition is described in Subsection (1)(a)(i)(B)(H), adjacent to the bar~~  
2093 ~~structure in a manner visible to a patron sitting at the bar structure;]~~

2094 [~~(ii) is not operational as of May 12, 2009, if:]~~

2095 [~~(A) a person applying for a full-service restaurant license or limited-service restaurant~~  
2096 ~~license:]~~

2097 [~~(I) has as of May 12, 2009, a building permit to construct the restaurant;]~~

2098 [~~(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~  
2099 ~~defined by rule made by the commission; and]~~

2100 [~~(HH) is issued the full-service restaurant license or limited-service restaurant license by~~  
2101 ~~no later than December 31, 2009; and]~~

2102 [~~(B) once constructed, the licensed premises has a bar structure described in Subsection~~  
2103 ~~(1)(a)(i);]~~

2104 [~~(iii) as of May 12, 2009, has no patron seating at the bar structure; or]~~

2105 ~~[(iv) is not operational as of May 12, 2009, if:]~~  
 2106 ~~[(A) a person applying for a full-service restaurant license or limited-service restaurant~~  
 2107 ~~license:]~~  
 2108 ~~[(I) has as of May 12, 2009, a building permit to construct the restaurant;]~~  
 2109 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~  
 2110 ~~defined by rule made by the commission; and]~~  
 2111 ~~[(III) is issued a full-service restaurant license or limited-service restaurant license by~~  
 2112 ~~no later than December 31, 2009; and]~~  
 2113 ~~[(B) once constructed, the licensed premises has a bar structure with no patron seating.]~~  
 2114 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~  
 2115 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~  
 2116 ~~grandfathered bar structure, as defined by rule made by the commission.]~~  
 2117 ~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~  
 2118 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~  
 2119 ~~[(2) "Seating grandfathered bar structure" means a grandfathered bar structure~~  
 2120 ~~described in Subsection (1)(a)(i) or (ii).]~~

Reserved

Section 29. Section **32B-6-202 (Effective 07/01/11)** is amended to read:

**32B-6-202 (Effective 07/01/11). Definitions.**

[Reserved]

As used in this part:

(1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a full-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

(B) a partition at one or more locations on the bar structure that is along:

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in Subsection (1)(a)(i)(B); or

2136 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar  
2137 structure in a manner visible to a patron sitting at the bar structure;  
2138 (ii) is not operational as of May 12, 2009, if:  
2139 (A) a person applying for a full-service restaurant license:  
2140 (I) has as of May 12, 2009, a building permit to construct the restaurant;  
2141 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
2142 defined by rule made by the commission; and  
2143 (III) is issued the full-service restaurant license by no later than December 31, 2009;  
2144 and  
2145 (B) once constructed, the licensed premises has a bar structure described in Subsection  
2146 (1)(a)(i):  
2147 (iii) as of May 12, 2009, has no patron seating at the bar structure; or  
2148 (iv) is not operational as of May 12, 2009, if:  
2149 (A) a person applying for a full-service restaurant license:  
2150 (I) has as of May 12, 2009, a building permit to construct the restaurant;  
2151 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
2152 defined by rule made by the commission; and  
2153 (III) is issued a full-service restaurant license by no later than December 31, 2009; and  
2154 (B) once constructed, the licensed premises has a bar structure with no patron seating.  
2155 (b) "Grandfathered bar structure" does not include a grandfathered bar structure  
2156 described in Subsection (1)(a) on or after the day on which a restaurant remodels the  
2157 grandfathered bar structure, as defined by rule made by the commission.  
2158 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered  
2159 bar structure notwithstanding whether a restaurant undergoes a change of ownership.  
2160 (2) "Seating grandfathered bar structure" means:  
2161 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or  
2162 (b) a bar structure grandfathered under Section 32B-6-409.  
2163 Section 30. Section **32B-6-203 (Effective 07/01/11)** is amended to read:  
2164 **32B-6-203 (Effective 07/01/11). Commission's power to issue full-service**  
2165 **restaurant license.**  
2166 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of

2167 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a  
2168 full-service restaurant license from the commission in accordance with this part.

2169 (2) The commission may issue a full-service restaurant license to establish full-service  
2170 restaurant licensed premises at places and in numbers the commission considers proper for the  
2171 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises  
2172 operated as a full-service restaurant.

2173 (3) Subject to Section 32B-1-201:

2174 ~~[(3)]~~ (a) The commission may not issue a total number of full-service restaurant  
2175 licenses that at any time exceeds the number determined by dividing the population of the state  
2176 by ~~[5,200]~~ 4,925.

2177 (b) The commission may issue a seasonal full-service restaurant license in accordance  
2178 with Section 32B-5-206.

2179 (c) (i) If the location, design, and construction of a hotel may require more than one  
2180 full-service restaurant sales location within the hotel to serve the public convenience, the  
2181 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as  
2182 many as three full-service restaurant locations within the hotel under one full-service restaurant  
2183 license if:

2184 (A) the hotel has a minimum of 150 guest rooms; and

2185 (B) the locations under the full-service restaurant license are:

2186 (I) within the same hotel; and

2187 (II) on premises that are managed or operated, and owned or leased, by the full-service  
2188 restaurant licensee.

2189 (ii) A facility other than a hotel shall have a separate full-service restaurant license for  
2190 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

2191 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a  
2192 full-service restaurant license for premises that do not meet the proximity requirements of  
2193 Section 32B-1-202.

2194 (b) With respect to the premises of a full-service restaurant license issued by the  
2195 commission that undergoes a change of ownership, the commission shall waive or vary the  
2196 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a  
2197 full-service restaurant license to the new owner of the premises if:

2198 (i) when a full-service restaurant license was issued to a previous owner, the premises  
2199 met the proximity requirements of Subsection 32B-1-202(2);

2200 (ii) the premises has had a full-service restaurant license at all times since the  
2201 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;  
2202 and

2203 (iii) the community location was located within the proximity requirements of  
2204 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in  
2205 Subsection (4)(b)(i) was issued.

2206 Section 31. Section **32B-6-204 (Effective 07/01/11)** is amended to read:

2207 **32B-6-204 (Effective 07/01/11). Specific licensing requirements for full-service**  
2208 **restaurant license.**

2209 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,  
2210 Part 2, Retail Licensing Process.

2211 (2) (a) A full-service restaurant license expires on October 31 of each year.

2212 (b) To renew a person's full-service restaurant license, a person shall comply with the  
2213 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than  
2214 September 30.

2215 (3) (a) The nonrefundable application fee for a full-service restaurant license is [~~\$250~~]  
2216 \$300.

2217 (b) The initial license fee for a full-service restaurant license is [~~\$1,750~~] \$2,000.

2218 (c) The renewal fee for a full-service restaurant license is in the following amount:

| Gross Cost of Liquor in Previous License Year for the Licensee | Renewal Fee                           |
|--|---------------------------------------|
| 2220 under \$5,000   | [ <del>\$750</del> ] <u>\$850</u>     |
| 2221 equals or exceeds \$5,000 but less than \$10,000          | [ <del>\$900</del> ] <u>\$1,050</u>   |
| 2222 equals or exceeds \$10,000 but less than \$25,000         | [ <del>\$1,250</del> ] <u>\$1,500</u> |
| 2223 equals or exceeds \$25,000                                | [ <del>\$1,500</del> ] <u>\$1,750</u> |

2224 (4) The bond amount required for a full-service restaurant license is the penal sum of  
2225 \$10,000.

2226 Section 32. Section **32B-6-205 (Effective 07/01/11)** is amended to read:

2227 **32B-6-205 (Effective 07/01/11). Specific operational requirements for a**  
2228 **full-service restaurant license.**



2229 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2230 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee  
2231 shall comply with this section.

2232 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2233 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2234 (i) a full-service restaurant licensee;

2235 (ii) individual staff of a full-service restaurant licensee; or

2236 (iii) both a full-service restaurant licensee and staff of the full-service restaurant  
2237 licensee.

2238 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant  
2239 licensee shall display in a prominent place in the restaurant a list of the types and brand names  
2240 of liquor being furnished through the full-service restaurant licensee's calibrated metered  
2241 dispensing system.

2242 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee  
2243 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2244 (4) (a) An individual who serves an alcoholic product in a full-service restaurant  
2245 licensee's premises shall make a written beverage tab for each table or group that orders or  
2246 consumes an alcoholic product on the premises.

2247 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an  
2248 alcoholic product ordered or consumed.

2249 (5) A person's willingness to serve an alcoholic product may not be made a condition  
2250 of employment as a server with a full-service restaurant licensee.

2251 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at  
2252 the licensed premises on any day during the period that:

2253 (i) begins at midnight; and

2254 (ii) ends at [~~11:59~~] 11:29 a.m.

2255 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the  
2256 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2257 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant  
2258 business from the sale of food, which does not include:

2259 (a) mix for an alcoholic product; or

2260 (b) a service charge.

2261 (8) (a) A full-service restaurant may not sell, offer for sale, or furnish an alcoholic  
2262 product except in connection with an order for food prepared, sold, and furnished at the  
2263 licensed premises.

2264 (b) A full-service restaurant shall maintain on the licensed premises adequate culinary  
2265 facilities for food preparation and dining accommodations.

2266 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have  
2267 more than two alcoholic products of any kind at a time before the patron.

2268 (b) A patron may not have more than one spirituous liquor drink at a time before the  
2269 patron.

2270 (c) An individual portion of wine is considered to be one alcoholic product under  
2271 Subsection (9)(a).

2272 (10) A patron may consume an alcoholic product only:

2273 (a) at:

2274 (i) the patron's table;

2275 (ii) a counter; or

2276 (iii) a seating grandfathered bar structure; and

2277 (b) where food is served.

2278 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an  
2279 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar  
2280 structure that is not a seating grandfathered bar structure.

2281 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older  
2282 may:

2283 (i) sit;

2284 (ii) be furnished an alcoholic product; and

2285 (iii) consume an alcoholic product.

2286 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a  
2287 full-service restaurant licensee may not permit a minor to, and a minor may not:

2288 (i) sit; or

2289 (ii) consume food or beverages.

2290 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed

2291 by a full-service restaurant licensee:

2292 (A) as provided in Subsection 32B-5-308(2); or

2293 (B) to perform maintenance and cleaning services during an hour when the full-service  
2294 restaurant licensee is not open for business.

2295 (ii) A minor may momentarily pass by a seating grandfathered bar structure without  
2296 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's  
2297 premises in which the minor is permitted to be.

2298 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee  
2299 may dispense an alcoholic product only if:

2300 (a) the alcoholic product is dispensed from:

2301 (i) a grandfathered bar structure;

2302 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at  
2303 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May  
2304 12, 2009; or

2305 (iii) an area that is:

2306 (A) separated from an area for the consumption of food by a patron by a solid,  
2307 ~~[opaque]~~ translucent, permanent structural barrier such that the facilities for the storage or  
2308 dispensing of an alcoholic product are:

2309 (I) not readily visible to a patron; and

2310 (II) not accessible by a patron; and

2311 (B) apart from an area used:

2312 (I) for dining;

2313 (II) for staging; or

2314 (III) as a lobby or waiting area;

2315 (b) the full-service restaurant licensee uses an alcoholic product that is:

2316 (i) stored in an area described in Subsection (12)(a); or

2317 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2318 (A) immediately before the alcoholic product is dispensed it is in an unopened

2319 ~~[package]~~ container;

2320 (B) the unopened ~~[package]~~ container is taken to an area described in Subsection

2321 (12)(a) before it is opened; and

2322 (C) once opened, the ~~[package]~~ container is stored in an area described in Subsection  
2323 (12)(a); and

2324 (c) any instrument or equipment used to dispense alcoholic product is located in an  
2325 area described in Subsection (12)(a).

2326 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a  
2327 charge or fee made in connection with the sale, service, or consumption of liquor including:

2328 (a) a set-up charge;

2329 (b) a service charge; or

2330 (c) a chilling fee.

2331 Section 33. Section **32B-6-302 (Effective 07/01/11)** is amended to read:

2332 **32B-6-302 (Effective 07/01/11). Definitions.**

2333 ~~[For purposes of this part, wine]~~

2334 As used in this part:

2335 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a  
2336 limited-service restaurant licensee that:

2337 (i) as of May 11, 2009, has:

2338 (A) patron seating at the bar structure;

2339 (B) a partition at one or more locations on the bar structure that is along:

2340 (I) the width of the bar structure; or

2341 (II) the length of the bar structure; and

2342 (C) facilities for the dispensing or storage of an alcoholic product:

2343 (I) on the portion of the bar structure that is separated by the partition described in  
2344 Subsection (1)(a)(i)(B); or

2345 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar  
2346 structure in a manner visible to a patron sitting at the bar structure;

2347 (ii) is not operational as of May 12, 2009, if:

2348 (A) a person applying for a limited-service restaurant license:

2349 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2350 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
2351 defined by rule made by the commission; and

2352 (III) is issued the limited-service restaurant license by no later than December 31,

2353 2009; and

2354 (B) once constructed, the licensed premises has a bar structure described in Subsection

2355 (1)(a)(i);

2356 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2357 (iv) is not operational as of May 12, 2009, if:

2358 (A) a person applying for a limited-service restaurant license:

2359 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2360 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

2361 defined by rule made by the commission; and

2362 (III) is issued a limited-service restaurant license by no later than December 31, 2009;

2363 and

2364 (B) once constructed, the licensed premises has a bar structure with no patron seating.

2365 (b) "Grandfathered bar structure" does not include a grandfathered bar structure

2366 described in Subsection (1)(a) on or after the day on which a restaurant remodels the

2367 grandfathered bar structure, as defined by rule made by the commission.

2368 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered

2369 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

2370 (2) "Seating grandfathered bar structure" means:

2371 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or

2372 (b) a bar structure grandfathered under Section 32B-6-409.

2373 (3) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211

2374 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of

2375 wine containing not less than 7% and not more than 24% of alcohol by volume:

2376 [~~(1)~~] (a) sparkling and carbonated wine;

2377 [~~(2)~~] (b) wine made from condensed grape must;

2378 [~~(3)~~] (c) wine made from other agricultural products than the juice of sound, ripe

2379 grapes;

2380 [~~(4)~~] (d) imitation wine;

2381 [~~(5)~~] (e) compounds sold as wine;

2382 [~~(6)~~] (f) vermouth;

2383 [~~(7)~~] (g) cider;

2384           ~~[(8)]~~ (h) perry; and

2385           ~~[(9)]~~ (i) sake.

2386           Section 34. Section **32B-6-303 (Effective 07/01/11)** is amended to read:

2387           **32B-6-303 (Effective 07/01/11). Commission's power to issue limited-service**

2388 **restaurant license.**

2389           (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
2390 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first  
2391 obtain a limited-service restaurant license from the commission in accordance with this part.

2392           (2) (a) The commission may issue a limited-service restaurant license to establish  
2393 limited-service restaurant licensed premises at places and in numbers the commission considers  
2394 proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or  
2395 beer on premises operated as a limited-service restaurant.

2396           (b) A person may not sell, offer for sale, furnish, or allow the consumption of the  
2397 following on the licensed premises of a limited-service restaurant licensee:

2398           (i) spirituous liquor; or

2399           (ii) a flavored malt beverage.

2400           (3) Subject to Section 32B-1-201:

2401           ~~[(3)]~~ (a) The commission may not issue a total number of limited-service restaurant  
2402 licenses that at any time exceeds the number determined by dividing the population of the state  
2403 by ~~[9,300]~~ 8,373.

2404           (b) The commission may issue a seasonal limited-service restaurant license in  
2405 accordance with Section 32B-5-206.

2406           (c) (i) If the location, design, and construction of a hotel may require more than one  
2407 limited-service restaurant sales location within the hotel to serve the public convenience, the  
2408 commission may authorize the sale of wine, heavy beer, and beer at as many as three  
2409 limited-service restaurant locations within the hotel under one limited-service restaurant license  
2410 if:

2411           (A) the hotel has a minimum of 150 guest rooms; and

2412           (B) the locations under the limited-service restaurant license are:

2413           (I) within the same hotel; and

2414           (II) on premises that are managed or operated, and owned or leased by the

2415 limited-service restaurant licensee.

2416 (ii) A facility other than a hotel shall have a separate limited-service restaurant license  
2417 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or  
2418 furnished.

2419 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a  
2420 limited-service restaurant license for premises that do not meet the proximity requirements of  
2421 Section 32B-1-202.

2422 (b) With respect to the premises of a limited-service restaurant license issued by the  
2423 commission that undergoes a change of ownership, the commission shall waive or vary the  
2424 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a  
2425 limited-service restaurant license to the new owner of the premises if:

2426 (i) when a limited-service restaurant license was issued to a previous owner, the  
2427 premises met the proximity requirements of Subsection 32B-1-202(2);

2428 (ii) the premises has had a limited-service restaurant license at all times since the  
2429 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a  
2430 variance; and

2431 (iii) the community location was located within the proximity requirements of  
2432 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license  
2433 described in Subsection (4)(b)(i) was issued.

2434 Section 35. Section **32B-6-304 (Effective 07/01/11)** is amended to read:

2435 **32B-6-304 (Effective 07/01/11). Specific licensing requirements for limited-service**  
2436 **restaurant license.**

2437 (1) To obtain a limited-service restaurant license a person shall comply with Chapter 5,  
2438 Part 2, Retail Licensing Process.

2439 (2) (a) A limited-service restaurant license expires on October 31 of each year.

2440 (b) To renew a person's limited-service restaurant license, a person shall comply with  
2441 the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than  
2442 September 30.

2443 (3) (a) The nonrefundable application fee for a limited-service restaurant license is  
2444 [~~\$250~~] \$300.

2445 (b) The initial license fee for a limited-service restaurant license is [~~\$500~~] \$750.

2446 (c) The renewal fee for a limited-service restaurant license is [~~\$300~~] \$550.

2447 (4) The bond amount required for a limited-service restaurant license is the penal sum  
2448 of \$5,000.

2449 Section 36. Section **32B-6-305 (Effective 07/01/11)** is amended to read:

2450 **32B-6-305 (Effective 07/01/11). Specific operational requirements for a**  
2451 **limited-service restaurant license.**

2452 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2453 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant  
2454 licensee shall comply with this section.

2455 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2456 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2457 (i) a limited-service restaurant licensee;

2458 (ii) individual staff of a limited-service restaurant licensee; or

2459 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant  
2460 licensee.

2461 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer  
2462 for sale, furnish, or allow consumption of:

2463 (i) spirituous liquor; or

2464 (ii) a flavored malt beverage.

2465 (b) A product listed in Subsection (2)(a) may not be on the premises of a  
2466 limited-service restaurant licensee except for use:

2467 (i) as a flavoring on a dessert; and

2468 (ii) in the preparation of a flaming food dish, drink, or dessert.

2469 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant  
2470 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2471 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant  
2472 licensee's premises shall make a written beverage tab for each table or group that orders or  
2473 consumes an alcoholic product on the premises.

2474 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an  
2475 alcoholic product ordered or consumed.

2476 (5) A person's willingness to serve an alcoholic product may not be made a condition



2477 of employment as a server with a limited-service restaurant licensee.

2478 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine  
2479 or heavy beer at the licensed premises on any day during the period that:

2480 (i) begins at midnight; and

2481 (ii) ends at [~~11:59~~] 11:29 a.m.

2482 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during  
2483 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2484 (7) A limited-service restaurant licensee shall maintain at least 70% of its total  
2485 restaurant business from the sale of food, which does not include a service charge.

2486 (8) (a) A limited-service restaurant may not sell, offer for sale, or furnish an alcoholic  
2487 product except in connection with an order for food prepared, sold, and furnished at the  
2488 licensed premises.

2489 (b) A limited-service restaurant shall maintain on the licensed premises adequate  
2490 culinary facilities for food preparation and dining accommodations.

2491 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have  
2492 more than two alcoholic products of any kind at a time before the patron.

2493 (b) An individual portion of wine is considered to be one alcoholic product under  
2494 Subsection (9)(a).

2495 (10) A patron may consume an alcoholic product only:

2496 (a) at:

2497 (i) the patron's table;

2498 (ii) a counter; or

2499 (iii) a seating grandfathered bar structure; and

2500 (b) where food is served.

2501 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an  
2502 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar  
2503 structure that is not a seating grandfathered bar structure.

2504 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older  
2505 may:

2506 (i) sit;

2507 (ii) be furnished an alcoholic product; and

- 2508 (iii) consume an alcoholic product.
- 2509 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 2510 limited-service restaurant licensee may not permit a minor to, and a minor may not:
- 2511 (i) sit; or
- 2512 (ii) consume food or beverages.
- 2513 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
- 2514 by a limited-service restaurant licensee:
- 2515 (A) as provided in Subsection 32B-5-308(2); or
- 2516 (B) to perform maintenance and cleaning services during an hour when the
- 2517 limited-service restaurant licensee is not open for business.
- 2518 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 2519 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
- 2520 licensee's premises in which the minor is permitted to be.
- 2521 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
- 2522 licensee may dispense an alcoholic product only if:
- 2523 (a) the alcoholic product is dispensed from:
- 2524 (i) a grandfathered bar structure;
- 2525 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
- 2526 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
- 2527 12, 2009; or
- 2528 (iii) an area that is:
- 2529 (A) separated from an area for the consumption of food by a patron by a solid,
- 2530 [~~opaque~~] translucent, permanent structural barrier such that the facilities for the storage or
- 2531 dispensing of an alcoholic product are:
- 2532 (I) not readily visible to a patron; and
- 2533 (II) not accessible by a patron; and
- 2534 (B) apart from an area used:
- 2535 (I) for dining;
- 2536 (II) for staging; or
- 2537 (III) as a lobby or waiting area;
- 2538 (b) the limited-service restaurant licensee uses an alcoholic product that is:

- 2539 (i) stored in an area described in Subsection (12)(a); or
- 2540 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 2541 (A) immediately before the alcoholic product is dispensed it is in an unopened
- 2542 [package] container;
- 2543 (B) the unopened [package] container is taken to an area described in Subsection
- 2544 (12)(a) before it is opened; and
- 2545 (C) once opened, the [package] container is stored in an area described in Subsection
- 2546 (12)(a); and
- 2547 (c) any instrument or equipment used to dispense alcoholic product is located in an
- 2548 area described in Subsection (12)(a).
- 2549 (13) A limited-service restaurant licensee may state in a food or alcoholic product
- 2550 menu a charge or fee made in connection with the sale, service, or consumption of wine or
- 2551 heavy beer including:
- 2552 (a) a set-up charge;
- 2553 (b) a service charge; or
- 2554 (c) a chilling fee.
- 2555 Section 37. Section **32B-6-403 (Effective 07/01/11)** is amended to read:
- 2556 **32B-6-403 (Effective 07/01/11). Commission's power to issue club license.**
- 2557 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
- 2558 an alcoholic product on its premises as a club licensee, the person shall first obtain a club
- 2559 license from the commission in accordance with this part.
- 2560 (2) The commission may issue a club license to establish club licensed premises at
- 2561 places and in numbers the commission considers proper for the storage, sale, offer for sale,
- 2562 furnishing, and consumption of an alcoholic product on premises operated by a club licensee.
- 2563 (3) Subject to Section 32B-1-201:
- 2564 ~~(3)~~ (a) The commission may not issue a total number of club licenses that at any time
- 2565 exceeds the number determined by dividing the population of the state by 7,850.
- 2566 (b) The commission may issue a seasonal club license in accordance with Section
- 2567 32B-5-206 to:
- 2568 (i) a dining club licensee; or
- 2569 (ii) a social club licensee.

2570 (c) (i) If the location, design, and construction of a hotel may require more than one  
2571 dining club license or social club license location within the hotel to serve the public  
2572 convenience, the commission may authorize as many as three club license locations within the  
2573 hotel under one club license if:

2574 (A) the hotel has a minimum of 150 guest rooms; and

2575 (B) all locations under the club license are:

2576 (I) within the same hotel; and

2577 (II) on premises that are managed or operated, and owned or leased, by the club

2578 licensee.

2579 (ii) A facility other than a hotel shall have a separate club license for each club license  
2580 location where an alcoholic product is sold, offered for sale, or furnished.

2581 Section 38. Section **32B-6-404 (Effective 07/01/11)** is amended to read:

2582 **32B-6-404 (Effective 07/01/11). Types of club license.**

2583 (1) To obtain an equity club license, in addition to meeting the other requirements of  
2584 this part, a person shall:

2585 (a) whether incorporated or unincorporated:

2586 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal  
2587 purpose;

2588 (ii) have members;

2589 (iii) limit access to its licensed premises to a member or a guest of the member; and

2590 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold  
2591 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2592 (b) own, maintain, or operate a substantial recreational facility in conjunction with a  
2593 club house such as:

2594 (i) a golf course; or

2595 (ii) a tennis facility;

2596 (c) have at least 50% of the total membership having:

2597 (i) full voting rights; and

2598 (ii) an equal share of the equity of the club; and

2599 (d) if there is more than one class of membership, have at least one class of

2600 membership that entitles each member in that class to:

- 2601 (i) full voting rights; and  
 2602 (ii) an equal share of the equity of the club.
- 2603 (2) To obtain a fraternal club license, in addition to meeting the other requirements of  
 2604 this part, a person shall:
- 2605 (a) whether incorporated or unincorporated:
- 2606 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal  
 2607 purpose;
- 2608 (ii) have members;
- 2609 (iii) limit access to its licensed premises to a member or a guest of the member; and  
 2610 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold  
 2611 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
- 2612 (b) have no capital stock;
- 2613 (c) exist solely for:
- 2614 (i) the benefit of its members and their beneficiaries; and  
 2615 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,  
 2616 patriotic, or religious purpose for the benefit of its members or the public, carried on through  
 2617 voluntary activity of its members in their local lodges;
- 2618 (d) have a representative form of government;
- 2619 (e) have a lodge system in which:
- 2620 (i) there is a supreme governing body;
- 2621 (ii) subordinate to the supreme governing body are local lodges, however designated,  
 2622 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 2623 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at  
 2624 least monthly; and
- 2625 (iv) the local lodges regularly engage in one or more programs involving member  
 2626 participation to implement the purposes of Subsection (2)(c); and
- 2627 (f) own or lease a building or space in a building used for lodge activities.
- 2628 (3) To obtain a dining club license, in addition to meeting the other requirements of  
 2629 this part, a person shall:
- 2630 (a) maintain at least [50%] the following percentages of its total club business from the  
 2631 sale of food, not including[~~:(i)~~] mix for alcoholic products[~~;~~], or [~~(ii)~~] service charges[~~;~~ and];

- 2632            (i) for a dining club license that is issued an original license on or after July 1, 2011,  
2633 60%;
- 2634            (ii) for a dining club license that is issued on or before June 30, 2011:
- 2635            (A) 50% on or before June 30, 2012; and  
2636            (B) 60% on and after July 1, 2012; and
- 2637            (b) obtain a determination by the commission that the person will operate as a dining  
2638 club licensee, as part of which the commission may consider:
- 2639            (i) the square footage and seating capacity of the premises;
- 2640            (ii) what portion of the square footage and seating capacity will be used for a dining  
2641 area in comparison to the portion that will be used as a lounge or bar area;
- 2642            (iii) whether full meals including appetizers, main courses, and desserts are served;
- 2643            (iv) whether the person will maintain adequate on-premise culinary facilities to prepare  
2644 full meals, except a person who is located on the premise of a hotel or resort facility may use  
2645 the culinary facilities of the hotel or resort facility;
- 2646            (v) whether the entertainment provided at the club is suitable for minors; and
- 2647            (vi) the club management's ability to manage and operate a dining club license  
2648 including:
- 2649            (A) management experience;
- 2650            (B) past dining club licensee or restaurant management experience; and
- 2651            (C) the type of management scheme used by the dining club license.
- 2652            (4) To obtain a social club license, a person is required to meet the requirements of this  
2653 part except those listed in Subsection (1), (2), or (3).
- 2654            (5) (a) At the time that the commission issues a club license, the commission shall  
2655 designate the type of club license for which the person qualifies.
- 2656            (b) If requested by a club licensee, the commission may approve a change in the type of  
2657 club license in accordance with rules made by the commission.
- 2658            (6) To the extent not prohibited by law, this part does not prevent a dining club  
2659 licensee or social club licensee from restricting access to the club's licensed premises on the  
2660 basis of an individual:
- 2661            (a) paying a fee; or
- 2662            (b) agreeing to being on a list of individuals who have access to the club's licensed

2663 premises.

2664 Section 39. Section **32B-6-405 (Effective 07/01/11)** is amended to read:

2665 **32B-6-405 (Effective 07/01/11). Specific licensing requirements for club license.**

2666 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail  
2667 Licensing Process, a person shall submit with the written application:

2668 (a) (i) a statement as to whether the person is seeking to qualify as:

2669 (A) an equity club licensee;

2670 (B) a fraternal club licensee;

2671 (C) a dining club licensee; or

2672 (D) a social club licensee; and

2673 (ii) evidence that the person meets the requirements for the type of club license for  
2674 which the person is applying;

2675 (b) evidence that the person operates club premises where a variety of food is prepared  
2676 and served in connection with dining accommodations; and

2677 (c) if the person is applying for an equity club license or fraternal club license, a copy  
2678 of the club's bylaws or house rules, and an amendment to those records.

2679 (2) The commission may refuse to issue a club license to a person for an equity club  
2680 license or fraternal club license if the commission determines that a provision of the person's  
2681 bylaws or house rules, or amendments to those records is not:

2682 (a) reasonable; and

2683 (b) consistent with:

2684 (i) the declared nature and purpose of the club licensee; and

2685 (ii) the purposes of this part.

2686 (3) (a) A club license expires on June 30 of each year.

2687 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,  
2688 Part 2, Retail Licensing Process, by no later than May 31.

2689 (4) (a) The nonrefundable application fee for a club license is [~~\$250~~] \$300.

2690 (b) The initial license fee for a club license is [~~\$2,500~~] \$2,750.

2691 (c) The renewal fee for a club license is [~~\$1,600~~] \$2,000.

2692 (5) The bond amount required for a full-service restaurant license is the penal sum of  
2693 \$10,000.

2694 Section 40. Section **32B-6-406 (Effective 07/01/11)** is amended to read:  
2695 **32B-6-406 (Effective 07/01/11). Specific operational requirements for a club**  
2696 **license.**

2697 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2698 Requirements, a club licensee and staff of the club licensee shall comply with this section.

2699 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2700 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2701 (i) a club licensee;  
2702 (ii) individual staff of a club licensee; or  
2703 (iii) both a club licensee and staff of the club licensee.

2704 (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall  
2705 display in a prominent place in the club licensed premises a list of the types and brand names of  
2706 liquor being furnished through the club licensee's calibrated metered dispensing system.

2707 (3) (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain  
2708 for a minimum of three years:

2709 (i) a record required by Section 32B-5-302; and  
2710 (ii) a record maintained or used by the club licensee, as the department requires.

2711 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in  
2712 accordance with this Subsection (3).

2713 (c) The department shall audit the records of a club licensee at least once annually.

2714 (4) (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed  
2715 premises on any day during a period that:

2716 (i) begins at 1 a.m.; and  
2717 (ii) ends at 9:59 a.m.

2718 (b) A club licensee may sell, offer for sale, or furnish beer during the hours specified in  
2719 Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

2720 (c) (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its  
2721 licensed premises open for one hour after the club licensee ceases the sale and furnishing of an  
2722 alcoholic product during which time a patron of the club licensee may finish consuming:

2723 (A) a single drink containing spirituous liquor;  
2724 (B) a single serving of wine not exceeding five ounces;



- 2725 (C) a single serving of heavy beer;
- 2726 (D) a single serving of beer not exceeding 26 ounces; or
- 2727 (E) a single serving of a flavored malt beverage.
- 2728 (ii) A club licensee is not required to remain open:
- 2729 (A) after all patrons have vacated the premises; or
- 2730 (B) during an emergency.
- 2731 ~~[(d) A club licensee may not allow a patron to remain on the licensed premises of the~~
- 2732 ~~club licensee to consume an alcoholic product on the licensed premises during a period that:]~~
- 2733 ~~[(i) begins at 2 a.m.; and]~~
- 2734 ~~[(ii) ends at 9:59 a.m.]~~
- 2735 (5) (a) A minor may not be admitted into, use, or be in:
- 2736 (i) a lounge or bar area of the premises of:
- 2737 (A) an equity club licensee;
- 2738 (B) a fraternal club licensee; or
- 2739 (C) a dining club licensee; or
- 2740 (ii) the premises of:
- 2741 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
- 2742 or older; or
- 2743 (B) a social club licensee, except to the extent provided for under Section 32B-6-406.1.
- 2744 (b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:
- 2745 (i) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or
- 2746 dining club licensee; or
- 2747 (ii) handle an alcoholic product.
- 2748 (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed
- 2749 premises of a social club licensee.
- 2750 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
- 2751 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
- 2752 club licensee.
- 2753 (6) A club licensee shall have food available at all times when an alcoholic product is
- 2754 sold, offered for sale, furnished, or consumed on the licensed premises.
- 2755 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have

2756 more than two alcoholic products of any kind at a time before the patron.

2757 (b) A patron may not have two spirituous liquor drinks before the club licensee patron  
2758 if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other  
2759 spirituous liquor drink.

2760 (c) An individual portion of wine is considered to be one alcoholic product under  
2761 Subsection (7)(a).

2762 (8) A club licensee shall have available on the premises for a patron to review at the  
2763 time that the patron requests it, a written alcoholic product price list or a menu containing the  
2764 price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:

2765 (a) a set-up charge;

2766 (b) a service charge; or

2767 (c) a chilling fee.

2768 (9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or  
2769 otherwise temporarily lease its premises to a person unless:

2770 (a) the person to whom the club licensee rents or leases the premises agrees in writing  
2771 to comply with this title as if the person is the club licensee, except for a requirement related to  
2772 making or maintaining a record; and

2773 (b) the club licensee takes reasonable steps to ensure that the person complies with this  
2774 section as provided in Subsection (9)(a).

2775 (10) If a club licensee is an equity club licensee or fraternal club licensee, the club  
2776 licensee shall comply with Section 32B-6-407.

2777 (11) If a club licensee is a dining club licensee or social club licensee, the club licensee  
2778 shall comply with Section 32B-1-407.

2779 (12) (a) A club licensee shall own or lease premises suitable for the club licensee's  
2780 activities.

2781 (b) A club licensee may not maintain licensed premises in a manner that barricades or  
2782 conceals the club licensee's operation.

2783 Section 41. Section **32B-6-409** is enacted to read:

2784 **32B-6-409. Conversion from dining club license to different type of retail license.**

2785 **(1) In accordance with this section, a dining club licensee may convert its dining club**  
2786 **license to a different type of retail license, including a different type of club license during the**

2787 time period:

2788 (a) beginning on July 1, 2011; and

2789 (b) ending on June 30, 2013.

2790 (2) A dining club licensee may convert its dining license only to a retail license for  
2791 which the dining club licensee qualifies.

2792 (3) The commission shall provide a procedure for a dining club to convert to a different  
2793 type of retail license as provided in this section by rule made in accordance with Title 63G,  
2794 Chapter 3, Utah Administrative Rulemaking Act.

2795 (4) After a dining club license is converted to another type of retail license, the retail  
2796 licensee shall operate under the provisions relevant to the type of retail license held by the retail  
2797 licensee, except that, in accordance with Section 32B-1-201, the retail license is not considered  
2798 in determining the total number of licenses available for that type of retail license.

2799 (5) If a dining club license is converted to full-service restaurant license,  
2800 limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining  
2801 club is considered:

2802 (a) a seating grandfathered bar structure for purposes of a full-service restaurant license  
2803 or a limited-service restaurant license; or

2804 (b) a grandfathered bar structure for purposes of a beer-only restaurant license.

2805 Section 42. Section **32B-6-502 (Effective 07/01/11)** is amended to read:

2806 **32B-6-502 (Effective 07/01/11). Definitions.**

2807 [Reserved]

2808 As used in this chapter, "total passengers" means the number of total passengers in a  
2809 calendar year that is reported in the most current comprehensive annual financial report for the  
2810 airport in which an airport lounge is located.

2811 Section 43. Section **32B-6-503 (Effective 07/01/11)** is amended to read:

2812 **32B-6-503 (Effective 07/01/11). Commission's power to issue airport lounge**  
2813 **license.**

2814 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
2815 an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain  
2816 an airport lounge license from the commission in accordance with this part.

2817 (2) The commission may issue an airport lounge license to establish airport lounge

2818 licensed premises beyond the security point at an international airport and in the numbers the  
2819 commission considers proper for the storage, sale, offer for sale, furnishing, and consumption  
2820 of an alcoholic product on licensed premises operated as an airport lounge.

2821 (3) (a) The commission may not issue a total number of airport lounge licenses for an  
2822 international airport that at any time exceed one [~~lounge per terminal plus one lounge per~~  
2823 ~~concourse located beyond the security point at that international airport]~~ airport lounge license  
2824 for each 2,500,000 of total passengers at the international airport.

2825 (b) Notwithstanding Subsection (3)(a), the commission may not reduce the total  
2826 number of airport lounge licenses unless:

2827 (i) the commission determines that the number of total passengers is reduced by more  
2828 than 25% from the last day on which the commission determined the total number of airport  
2829 lounge licenses allowed for that international airport under this Subsection (3); and

2830 (ii) the reduction can be accomplished without the international airport terminating a  
2831 lease for an airport lounge before:

2832 (A) the expiration of the lease;

2833 (B) the airport lounge undergoes a change of ownership; or

2834 (C) the airport lounge ceases operations.

2835 Section 44. Section **32B-6-504 (Effective 07/01/11)** is amended to read:

2836 **32B-6-504 (Effective 07/01/11). Specific licensing requirements for airport lounge**  
2837 **license.**

2838 (1) To obtain an airport lounge license, in addition to complying with Chapter 5, Part  
2839 2, Retail Licensing Process, a person shall submit with the written application:

2840 (a) both the written consent of the local authority and the written consent of the airport  
2841 authority; and

2842 (b) a copy of the sign proposed to be used by the airport lounge licensee on its licensed  
2843 premises to inform the public that alcoholic products are sold and consumed on the licensed  
2844 premises.

2845 (2) (a) An airport lounge license expires on October 31 of each year.

2846 (b) To renew a person's airport lounge license, a person shall comply with the renewal  
2847 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

2848 (3) (a) The nonrefundable application fee for an airport lounge license is [~~\$250~~] \$300.

2849 (b) The initial license fee for an airport lounge license is [~~\$7,000~~] \$8,000.

2850 (c) The renewal fee for an airport lounge license is [~~\$5,000~~] \$6,000.

2851 (4) The bond amount required for an airport lounge license is the penal sum of  
2852 \$10,000.

2853 (5) An airport lounge license is not subject to the proximity requirements of Section  
2854 32B-1-202.

2855 Section 45. Section **32B-6-603 (Effective 07/01/11)** is amended to read:

2856 **32B-6-603 (Effective 07/01/11). Commission's power to issue on-premise banquet**  
2857 **license -- Contracts as host.**

2858 (1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption  
2859 of an alcoholic product in connection with the person's banquet and room service activities at  
2860 one of the following, the person shall first obtain an on-premise banquet license in accordance  
2861 with this part:

2862 (i) a hotel;

2863 (ii) a resort facility;

2864 (iii) a sports center; or

2865 (iv) a convention center.

2866 (b) This part does not prohibit an alcoholic product on the premises of a person listed  
2867 in Subsection (1)(a) to the extent otherwise permitted by this title.

2868 (c) This section does not prohibit a person who applies for an on-premise banquet  
2869 license to also apply for a package agency if otherwise qualified.

2870 (2) The commission may issue an on-premise banquet license to establish on-premise  
2871 banquet licensees in the numbers the commission considers proper for the storage, sale, offer  
2872 for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room  
2873 service activities operated by an on-premise banquet licensee.

2874 (3) [~~The~~] Subject to Section 32B-1-201, the commission may not issue a total number  
2875 of on-premise banquet licenses that at any time exceed the number determined by dividing the  
2876 population of the state by 30,000.

2877 [~~(4) (a) As used in this Subsection (4), "grandfathered facility" means a facility:]~~

2878 [~~(i) for which the commission issued an on-premise banquet license that is in effect on~~  
2879 ~~May 11, 2009, on the basis that the facility is a convention center; and]~~

2880 ~~[(ii) that no longer qualifies as a convention center as defined in Section 32B-1-102~~  
2881 ~~solely because it is in total less than 30,000 square feet.]~~

2882 ~~[(b) Notwithstanding the definition of "convention center" in Section 32B-1-102, an~~  
2883 ~~on-premise banquet license applicable to a grandfathered facility may be renewed until October~~  
2884 ~~31, 2011, if the on-premise banquet licensee is qualified for an on-premise banquet license~~  
2885 ~~except for the requirement that the facility be in total at least 30,000 square feet.]~~

2886 ~~[(5)]~~ (4) Pursuant to a contract between the host of a banquet and an on-premise  
2887 banquet licensee:

2888 (a) the host of the banquet may request an on-premise banquet licensee to provide an  
2889 alcoholic product served at the banquet; and

2890 (b) an on-premise banquet licensee may provide an alcoholic product served at the  
2891 banquet.

2892 ~~[(6)]~~ (5) At a banquet, an on-premise banquet licensee may furnish an alcoholic  
2893 product:

2894 (a) without charge to a patron at a banquet, except that the host of the banquet shall pay  
2895 for an alcoholic product furnished at the banquet; or

2896 (b) with a charge to a patron at the banquet.

2897 Section 46. Section **32B-6-604 (Effective 07/01/11)** is amended to read:

2898 **32B-6-604 (Effective 07/01/11). Specific licensing requirements for an on-premise**  
2899 **banquet license.**

2900 (1) To obtain an on-premise banquet license a person shall comply with Chapter 5, Part  
2901 2, Retail Licensing Process.

2902 (2) (a) An on-premise banquet license expires on October 31 of each year.

2903 (b) To renew a person's on-premise banquet license, a person shall comply with the  
2904 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

2905 (3) (a) The nonrefundable application fee for an on-premise banquet license is [~~\$250~~]  
2906 \$300.

2907 (b) The initial license fee for an on-premise banquet license is [~~\$500~~] \$750.

2908 (c) The renewal fee for an on-premise banquet license is [~~\$500~~] \$750.

2909 (4) The bond amount required for an on-premise banquet license is the penal sum of  
2910 \$10,000.

2911 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency or  
2912 political subdivision of the state it is not required to:

2913 (a) pay an application fee, initial license fee, or renewal fee;

2914 (b) obtain the written consent of the local authority;

2915 (c) submit a copy of the applicant's current business license; or

2916 (d) post a bond as specified by Section 32B-5-204.

2917 (6) Notwithstanding Subsection 32B-5-303(3), the department may approve an  
2918 additional location in or on the licensed premises of an on-premise banquet licensee from  
2919 which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the  
2920 consumption of an alcoholic product that is not included in its original application only:

2921 (a) upon proper application by an on-premise banquet licensee; and

2922 (b) in accordance with guidelines approved by the commission.

2923 Section 47. Section **32B-6-605 (Effective 07/01/11)** is amended to read:

2924 **32B-6-605 (Effective 07/01/11). Specific operational requirements for on-premise**  
2925 **banquet license.**

2926 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2927 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee  
2928 shall comply with this section.

2929 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2930 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2931 (i) an on-premise banquet licensee;

2932 (ii) individual staff of an on-premise banquet licensee; or

2933 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

2934 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and  
2935 (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is  
2936 the basis for the on-premise banquet license.

2937 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee  
2938 shall provide the department with advance notice of a scheduled banquet in accordance with  
2939 rules made by the commission.

2940 (b) Any of the following may conduct a random inspection of a banquet:

2941 (i) an authorized representative of the commission or the department; or

2942 (ii) a law enforcement officer.

2943 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall  
2944 make and maintain the records the commission or department requires.

2945 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
2946 accordance with this Subsection (4).

2947 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may  
2948 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the  
2949 location of the banquet.

2950 (b) A host of a banquet, a patron, or a person other than the on-premise banquet  
2951 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from  
2952 the premises of the banquet.

2953 (c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an  
2954 alcoholic product into or onto, or remove an alcoholic product from the premises of a banquet.

2955 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at  
2956 the banquet following the conclusion of the banquet.

2957 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

2958 (i) destroy an opened and unused alcoholic product that is not saleable, under  
2959 conditions established by the department; and

2960 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2961 (A) opened and unused alcoholic product that is saleable; and

2962 (B) unopened [~~package~~] container of an alcoholic product.

2963 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed [~~package~~]  
2964 container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet  
2965 licensee:

2966 (i) shall store the alcoholic product in the on-premise banquet licensee's approved  
2967 locked storage area; and

2968 (ii) may use the alcoholic product at more than one banquet.

2969 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not  
2970 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the  
2971 on-premise banquet licensee's banquet and room service activities.

2972 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic



2973 product at a banquet or in connection with room service any day during a period that:  
2974 (a) begins at 1 a.m.; and  
2975 (b) ends at 9:59 a.m.

2976 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual  
2977 banquet gross receipts from the sale of food, not including:  
2978 (a) mix for an alcoholic product; and  
2979 (b) a charge in connection with the furnishing of an alcoholic product.

2980 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have  
2981 more than two alcoholic products of any kind at a time before the patron.  
2982 (b) A patron may not have more than one spirituous liquor drink at a time before the  
2983 patron.  
2984 (c) An individual portion of wine is considered to be one alcoholic product under  
2985 Subsection (10)(a).

2986 (11) (a) An on-premise banquet licensee shall supervise and direct a person involved in  
2987 the sale, offer for sale, or furnishing of an alcoholic product.  
2988 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product  
2989 shall complete an alcohol training and education seminar.

2990 (12) A staff person of an on-premise banquet licensee shall remain at the banquet at all  
2991 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the  
2992 banquet.

2993 (13) (a) Room service of an alcoholic product to a guest room of a hotel or resort  
2994 facility shall be provided in person by staff of an on-premise banquet licensee only to an adult  
2995 guest in the guest room.  
2996 (b) An alcoholic product may not be left outside a guest room for retrieval by a guest.  
2997 [~~(c) An on-premise banquet licensee may only provide an alcoholic product for room  
2998 service in a sealed package.~~]

2999 Section 48. Section **32B-6-702 (Effective 07/01/11)** is amended to read:  
3000 **32B-6-702 (Effective 07/01/11). Definitions.**  
3001 [Reserved]  
3002 As used in this part, "recreational amenity" is defined by the commission by rule made  
3003 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made

3004 under this section shall define "recreational amenity" to be one or more of the following or an  
3005 activity substantially similar to one of the following:

- 3006 (1) a billiard parlor;
- 3007 (2) a pool parlor;
- 3008 (3) a bowling facility;
- 3009 (4) a golf course;
- 3010 (5) miniature golf;
- 3011 (6) a golf driving range; or
- 3012 (7) a tennis club.

3013 Section 49. Section **32B-6-703 (Effective 07/01/11)** is amended to read:

3014 **32B-6-703 (Effective 07/01/11). Commission's power to issue on-premise beer**  
3015 **retailer license.**

3016 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
3017 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise  
3018 beer retailer license from the commission in accordance with this part.

3019 (2) (a) The commission may issue an on-premise beer retailer license to establish  
3020 on-premise beer retailer licensed premises at places and in numbers as the commission  
3021 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on  
3022 premises operated as an on-premise beer retailer.

3023 (b) At the time that the commission issues an on-premise beer retailer license, the  
3024 commission shall designate whether the on-premise beer retailer is a tavern.

3025 (c) The commission may change its designation of whether an on-premise beer retailer  
3026 is a tavern in accordance with rules made by the commission.

3027 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission  
3028 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of  
3029 beer for consumption on the establishment's premises.

3030 (ii) In making a determination under this Subsection (2)(d), the commission shall  
3031 consider:

3032 (A) whether the on-premise beer retailer will operate as one of the following:

- 3033 (I) a beer bar;
- 3034 (II) a parlor;

- 3035 (III) a lounge;
- 3036 (IV) a cabaret; or
- 3037 (V) a nightclub;
- 3038 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 3039 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 3040 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 3041 will exceed the revenue of the sale of food;
- 3042 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 3043 (D) the square footage and seating capacity of the premises;
- 3044 (E) what portion of the square footage and seating capacity will be used for a dining
- 3045 area in comparison to the portion that will be used as a lounge or bar area;
- 3046 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 3047 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 3048 the culinary facilities of the hotel or resort facility;
- 3049 (G) whether the entertainment provided on the premises of the beer retailer will be
- 3050 suitable for minors; and
- 3051 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 3052 retailer license including:
- 3053 (I) management experience;
- 3054 (II) past beer retailer management experience; and
- 3055 (III) the type of management scheme that will be used by the beer retailer.
- 3056 (e) On or after March 1, 2012:
- 3057 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall
- 3058 maintain at least 70% of its total gross revenues from a recreational amenity on or directly
- 3059 adjoining the licensed premises of the beer retailer.
- 3060 (ii) The commission may not license a person as an on-premise beer retailer if the
- 3061 person does not:
- 3062 (A) meet the requirements of Subsection (2)(e); or
- 3063 (B) operate as a tavern.
- 3064 (iii) (A) A person licensed as an on-premise beer retailer as of July 1, 2011, shall notify
- 3065 the department by no later than August 1, 2011, whether the person will seek to be licensed as

3066 a beer-only restaurant licensee effective March 1, 2012.

3067 (B) If an on-premise beer retailer fails to notify the department as required by  
3068 Subsection (2)(e)(i)(A), the on-premise beer retailer's license expires as of February 29, 2012,  
3069 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer  
3070 retailer is required to apply as a new licensee.

3071 (3) Subject to Section 32B-1-201:

3072 [~~3~~] (a) The commission may not issue a total number of on-premise beer retailer  
3073 licenses that are taverns that at any time exceeds the number determined by dividing the  
3074 population of the state by [~~30,500~~] 54,147.

3075 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern  
3076 in accordance with Section 32B-5-206.

3077 (4) (a) Unless otherwise provided in Subsection (4)(b):

3078 (i) only one on-premise beer retailer license is required for each building or resort  
3079 facility owned or leased by the same person; and

3080 (ii) a separate license is not required for each retail beer dispensing location in the  
3081 same building or on the same resort premises owned or operated by the same person.

3082 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the  
3083 building or resort facility operates in the same manner.

3084 (ii) If each retail beer dispensing location does not operate in the same manner:

3085 (A) one on-premise beer retailer license designated as a tavern is required for the  
3086 locations in the same building or on the same resort premises that operate as a tavern; and

3087 (B) one on-premise beer retailer license is required for the locations in the same  
3088 building or on the same resort premises that do not operate as a tavern.

3089 Section 50. Section **32B-6-705 (Effective 07/01/11)** is amended to read:

3090 **32B-6-705 (Effective 07/01/11). Specific licensing requirements for on-premise**  
3091 **beer retailer license.**

3092 (1) To obtain an on-premise beer retailer license a person shall comply with Chapter 5,  
3093 Part 2, Retail Licensing Process, except that an on-premise beer retailer is required to carry  
3094 dramshop insurance coverage in accordance with Section 32B-5-201 only if the on-premise  
3095 beer retailer sells more than \$5,000 of beer annually.

3096 (2) (a) An on-premise beer retailer license expires on the last day of February each

3097 year.

3098 (b) To renew a person's on-premise beer retailer license, a person shall comply with the  
3099 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January  
3100 31.

3101 (3) (a) The nonrefundable application fee for an on-premise beer retailer license is  
3102 [~~\$250~~] \$300.

3103 (b) (i) The initial license fee for an on-premise beer retailer license that is not a tavern  
3104 is [~~\$150~~] \$300.

3105 (ii) The initial license fee for an on-premise beer retailer license that is a tavern is  
3106 [~~\$1,250~~] \$1,500.

3107 (c) (i) The renewal fee for an on-premise beer retailer license that is not a tavern is  
3108 [~~\$200~~] \$350.

3109 (ii) The renewal fee for an on-premise beer retailer license that is a tavern is [~~\$1,000~~]  
3110 \$1,250.

3111 (4) The bond amount required for an on-premise beer retailer license is the penal sum  
3112 of \$2,000.

3113 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency or  
3114 political subdivision of the state it is not required to:

3115 (a) pay an application fee, initial license fee, or renewal fee;

3116 (b) obtain the written consent of the local authority;

3117 (c) submit a copy of the applicant's current business license; or

3118 (d) post a bond as specified by Section 32B-5-204.

3119 Section 51. Section **32B-6-706 (Effective 07/01/11)** is amended to read:

3120 **32B-6-706 (Effective 07/01/11). Specific operational requirements for on-premise**  
3121 **beer retailer license.**

3122 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
3123 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply  
3124 with this section.

3125 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
3126 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3127 (i) an on-premise beer retailer;

- 3128 (ii) individual staff of an on-premise beer retailer; or
- 3129 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.
- 3130 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make
- 3131 and maintain the records the department requires.
- 3132 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 3133 accordance with this Subsection (2).
- 3134 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or
- 3135 sell liquor on its licensed premises.
- 3136 (4) Beer sold in a sealed [~~package~~] container by an on-premise beer retailer may be
- 3137 removed from the on-premise beer retailer premises in the sealed [~~package~~] container.
- 3138 (5) [~~(a)~~] Only an on-premise beer retailer that operates as a tavern is subject to
- 3139 [~~Subsection~~] Section 32B-5-309[~~(+)~~].
- 3140 [~~(b) An on-premise beer retailer is subject to Subsections 32B-5-309(2) and (3)~~
- 3141 ~~regardless of whether it operates as a tavern.]~~
- 3142 (6) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
- 3143 licensed premises during a period that:
- 3144 (i) begins at 1 a.m.; and
- 3145 (ii) ends at [~~9:59~~] 11:29 a.m.
- 3146 (b) (i) Notwithstanding Subsection [~~(5)~~] (6)(a), a tavern shall remain open for one hour
- 3147 after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern
- 3148 may finish consuming a single serving of beer not exceeding 26 ounces.
- 3149 (ii) A tavern is not required to remain open:
- 3150 (A) after all patrons have vacated the premises; or
- 3151 (B) during an emergency.
- 3152 [~~(c) A tavern may not allow a patron to remain on the licensed premises to consume~~
- 3153 ~~beer on the licensed premises during a period that:]~~
- 3154 [~~(i) begins at 2 a.m.; and~~
- 3155 [~~(ii) ends at 9:59 a.m.]~~
- 3156 (7) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
- 3157 tavern.
- 3158 (8) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the

3159 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases  
3160 from:

3161 (A) a beer wholesaler licensee; or

3162 (B) a small brewer that manufactures the beer.

3163 (ii) Violation of Subsection (8)(a) is a class A misdemeanor.

3164 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (8) from a  
3165 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer  
3166 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
3167 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by  
3168 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

3169 (ii) Violation of Subsection (8)(b)(i) is a class B misdemeanor.

3170 (9) A tavern shall comply with Section 32B-1-407.

3171 Section 52. Section **32B-6-801** is enacted to read:

3172 **Part 8. Reception Center License**

3173 **32B-6-801. Title.**

3174 This part is known as "Reception Center License."

3175 Section 53. Section **32B-6-802** is enacted to read:

3176 **32B-6-802. Definitions.**

3177 Reserved

3178 Section 54. Section **32B-6-803** is enacted to read:

3179 **32B-6-803. Commission's power to issue reception center license.**

3180 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
3181 an alcoholic product on its premises as a reception center, the person shall first obtain a  
3182 reception center license from the commission in accordance with this part.

3183 (2) The commission may issue a reception center license to establish reception center  
3184 licensed premises at places and in numbers the commission considers proper for the storage,  
3185 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated  
3186 as a reception center.

3187 (3) Subject to Section 32B-1-201, the commission may not issue a total number of  
3188 reception center licenses that at any time exceeds the number determined by dividing the  
3189 population of the state by 56,313.

3190           (4) The commission may not issue a reception center license for premises that do not  
3191 meet the proximity requirements of Section 32B-1-202.

3192           Section 55. Section **32B-6-804** is enacted to read:

3193           **32B-6-804. Specific licensing requirements for reception center license.**

3194           (1) To obtain a reception center license a person shall comply with Chapter 5, Part 2,  
3195 Retail Licensing Process.

3196           (2) (a) A reception center license expires on October 31 of each year.

3197           (b) To renew a person's reception center license, a person shall comply with the  
3198 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than  
3199 September 30.

3200           (3) (a) The nonrefundable application fee for a reception center license is \$300.

3201           (b) The initial license fee for a reception center license is \$750.

3202           (c) The renewal fee for a reception center license is \$750.

3203           (4) The bond amount required for a reception center license is the penal sum of  
3204 \$10,000.

3205           Section 56. Section **32B-6-805** is enacted to read:

3206           **32B-6-805. Specific operational requirements for a reception center license.**

3207           (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
3208 Requirements, a reception center licensee and staff of the reception center licensee shall  
3209 comply with this section.

3210           (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
3211 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3212           (i) a reception center licensee;

3213           (ii) individual staff of a reception center licensee; or

3214           (iii) both a reception center licensee and staff of the reception center licensee.

3215           (2) In addition to complying with Section 32B-5-303, a reception center licensee shall  
3216 store an alcoholic product in a storage area described in Subsection (15)(a).

3217           (3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall  
3218 provide the following with advance notice of a scheduled event in accordance with rules made  
3219 by the commission:

3220           (i) the department; and



3221 (ii) the local law enforcement agency responsible for the enforcement of this title in the  
3222 jurisdiction where the reception center is located.

3223 (b) Any of the following may conduct a random inspection of an event:

3224 (i) an authorized representative of the commission or the department; or

3225 (ii) a law enforcement officer.

3226 (4) (a) Except as otherwise provided in this title, a reception center licensee may sell,  
3227 offer for sale, or furnish an alcoholic product at an event only for consumption at the reception  
3228 center.

3229 (b) A host of an event, a patron, or a person other than the reception center licensee or  
3230 staff of the reception center licensee, may not remove an alcoholic product from the reception  
3231 center.

3232 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an  
3233 alcoholic product into or onto, or remove an alcoholic product from, the reception center.

3234 (5) (a) A reception center licensee may not leave an unsold alcoholic product at an  
3235 event following the conclusion of the event.

3236 (b) At the conclusion of an event, a reception center licensee shall:

3237 (i) destroy an opened and unused alcoholic product that is not saleable, under  
3238 conditions established by the department; and

3239 (ii) return to the reception center licensee's approved locked storage area any:

3240 (A) opened and unused alcoholic product that is saleable; and

3241 (B) unopened container of an alcoholic product.

3242 (c) Except as provided in Subsection (5)(b) with regard to an open or sealed container  
3243 of an alcoholic product not sold or consumed at an event, a reception center licensee:

3244 (i) shall store the alcoholic product in accordance with Subsection (2); and

3245 (ii) may use the alcoholic product at more than one event.

3246 (6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a  
3247 minor in connection with an event at the reception center at which food is not made available.

3248 (7) A person's willingness to serve an alcoholic product may not be made a condition  
3249 of employment as a server with a reception center licensee.

3250 (8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic  
3251 product at the licensed premises on any day during the period that:

3252 (a) begins at 1 a.m.; and

3253 (b) ends at 9:59 a.m.

3254 (9) A reception center licensee may not maintain in excess of 30% of its total annual  
3255 receipts from the sale of an alcoholic product, which includes:

3256 (a) mix for an alcoholic product; or

3257 (b) a charge in connection with the furnishing of an alcoholic product.

3258 (10) A reception center licensee may not sell, offer for sale, or furnish an alcoholic  
3259 product at an event at which a minor is present unless the reception center licensee makes food  
3260 available at all times when an alcoholic product is sold, offered for sale, furnished, or  
3261 consumed during the event.

3262 (11) (a) Subject to the other provisions of this Subsection (11), a patron may not have  
3263 more than two alcoholic products of any kind at a time before the patron.

3264 (b) An individual portion of wine is considered to be one alcoholic product under  
3265 Subsection (11)(a).

3266 (12) (a) A reception center licensee shall supervise and direct a person involved in the  
3267 sale, offer for sale, or furnishing of an alcoholic product.

3268 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product  
3269 shall complete an alcohol training and education seminar.

3270 (13) A staff person of a reception center licensee shall remain at an event at all times  
3271 when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

3272 (14) A reception center licensee may not sell, offer for sale, or furnish an alcoholic  
3273 product to a patron, and a patron may not consume an alcoholic product at a bar structure.

3274 (15) Except as provided in Subsection (16), a reception center licensee may dispense  
3275 an alcoholic product only if:

3276 (a) the alcoholic product is dispensed from an area that is:

3277 (i) separated from an area for the consumption of food by a patron by a solid,  
3278 translucent, permanent structural barrier such that the facilities for the storage or dispensing of  
3279 an alcoholic product are:

3280 (A) not readily visible to a patron; and

3281 (B) not accessible by a patron; and

3282 (ii) apart from an area used:

- 3283 (A) for staging; or  
 3284 (B) as a lobby or waiting area;  
 3285 (b) the reception center licensee uses an alcoholic product that is:  
 3286 (i) stored in an area described in Subsection (15)(a); or  
 3287 (ii) in an area not described in Subsection (15)(a) on the licensed premises and:  
 3288 (A) immediately before the alcoholic product is dispensed it is in an unopened  
 3289 container;  
 3290 (B) the unopened container is taken to an area described in Subsection (15)(a) before it  
 3291 is opened; and  
 3292 (C) once opened, the container is stored in an area described in Subsection (15)(a); and  
 3293 (c) any instrument or equipment used to dispense an alcoholic product is located in an  
 3294 area described in Subsection (15)(a).  
 3295 (16) A reception center licensee may dispense an alcoholic product from a mobile  
 3296 -serving area that:  
 3297 (a) is moved only by staff of the reception center licensee;  
 3298 (b) is capable of being moved by only one individual; and  
 3299 (c) is no larger than 6 feet long and 30 inches wide.  
 3300 (17) (a) A reception center licensee may not have an event on the licensed premises  
 3301 except pursuant to a contract between a third party host of the event and the reception center  
 3302 licensee under which the reception center licensee provides an alcoholic product sold, offered  
 3303 for sale, or furnished at an event.  
 3304 (b) At an event, a reception center licensee may furnish an alcoholic product:  
 3305 (i) without charge to a patron, except that the third party host of the event shall pay for  
 3306 an alcoholic product furnished at the event; or  
 3307 (ii) with a charge to a patron at the event.  
 3308 (18) A reception center licensee shall have culinary facilities that are:  
 3309 (a) adequate to prepare a full meal; and  
 3310 (b) (i) located on the licensed premises; or  
 3311 (ii) under the same control as the reception center licensee.  
 3312 Section 57. Section **32B-6-901** is enacted to read:

3313 **Part 9. Beer-only Restaurant License**

3314 **32B-6-901. Title.**

3315 This part is known as "Beer-only Restaurant License."

3316 Section 58. Section **32B-6-902** is enacted to read:

3317 **32B-6-902. Definitions.**

3318 (1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a  
3319 licensed premises of a beer-only restaurant licensee that:

3320 (i) as of January 1, 2011:

3321 (A) is operational; and

3322 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet  
3323 the requirements of Subsection 32B-6-905(12)(a)(ii);

3324 (ii) is not operational as of January 1, 2011, if a person applying for the beer-only  
3325 restaurant license:

3326 (A) has as of January 1, 2011, a building permit to construct the restaurant;

3327 (B) is as of January 1, 2011, actively engaged in the construction of the restaurant, as  
3328 defined by rule made by the commission;

3329 (C) is issued the beer-only license by no later than December 31, 2011; and

3330 (D) once constructed, will have a bar structure that does not meet the requirements of  
3331 Subsection 32B-6-905(12)(a)(ii); or

3332 (iii) is a bar structure grandfathered under Section 32B-6-409.

3333 (b) "Grandfathered bar structure" does not include a grandfathered bar structure  
3334 described in Subsection (1)(a) on or after the day on which a restaurant remodels the  
3335 grandfathered bar structure, as defined by rule made by the commission.

3336 (2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered  
3337 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

3338 Section 59. Section **32B-6-903** is enacted to read:

3339 **32B-6-903. Commission's power to issue beer-only restaurant license.**

3340 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
3341 beer on its premises as a beer-only restaurant, the person shall first obtain a beer-only  
3342 restaurant license from the commission in accordance with this part.

3343 (2) (a) The commission may issue a beer-only restaurant license to establish beer-only  
3344 restaurant licensed premises at places and in numbers the commission considers proper for the

3345 storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a  
3346 beer-only restaurant.

3347 (b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on  
3348 the licensed premises of a beer-only restaurant licensee.

3349 (3) (a) Only one beer-only restaurant license is required for each building or resort  
3350 facility owned or leased by the same person.

3351 (b) A separate license is not required for each beer-only restaurant license dispensing  
3352 location in the same building or on the same resort premises owned or operated by the same  
3353 person.

3354 (4) (a) Except as provided in Subsection (4)(b) or (c), the commission may not issue a  
3355 beer-only restaurant license for premises that do not meet the proximity requirements of  
3356 Section 32B-1-202.

3357 (b) With respect to the premises of a beer-only restaurant license issued by the  
3358 commission that undergoes a change of ownership, the commission shall waive or vary the  
3359 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a  
3360 beer-only restaurant license to the new owner of the premises if:

3361 (i) when a beer-only restaurant license was issued to a previous owner, the premises  
3362 met the proximity requirements of Subsection 32B-1-202(2);

3363 (ii) the premises has had a beer-only restaurant license at all times since the beer-only  
3364 restaurant license described in Subsection (4)(b)(i) was issued without a variance; and

3365 (iii) the community location was located within the proximity requirements of  
3366 Subsection 32B-1-202(2) after the day on which the beer-only restaurant license described in  
3367 Subsection (4)(b)(i) was issued.

3368 (c) The location of the licensed premises of an on-premise beer retailer who is licensed  
3369 as of July 1, 2011, is grandfathered and not required to meet the proximity requirements of  
3370 Section 32B-1-202 if the on-premise beer retailer obtains a beer-only restaurant license by not  
3371 later than March 1, 2012. A location grandfathered under this Subsection (4)(c) is considered  
3372 grandfathered notwithstanding that the beer-only restaurant license undergoes a change of  
3373 ownership.

3374 Section 60. Section **32B-6-904** is enacted to read:

3375 **32B-6-904. Specific licensing requirements for beer-only restaurant license.**

3376 (1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part  
3377 2, Retail Licensing Process.

3378 (2) (a) A beer-only restaurant license expires the last day of February of each year.

3379 (b) To renew a person's beer-only restaurant license, a person shall comply with the  
3380 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January  
3381 31.

3382 (3) (a) The nonrefundable application fee for a beer-only restaurant license is \$300.

3383 (b) The initial license fee for a beer-only restaurant license is \$750.

3384 (c) The renewal fee for a beer-only restaurant license is \$550.

3385 (4) The bond amount required for a beer-only restaurant license is the penal sum of  
3386 \$5,000.

3387 Section 61. Section **32B-6-905** is enacted to read:

3388 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

3389 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
3390 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee  
3391 shall comply with this section.

3392 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
3393 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3394 (i) a beer-only restaurant licensee;

3395 (ii) individual staff of a beer-only restaurant licensee; or

3396 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3397 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for  
3398 sale, furnish, or allow consumption of liquor.

3399 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3400 (i) as a flavoring on a dessert; and

3401 (ii) in the preparation of a flaming food dish, drink, or dessert.

3402 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee  
3403 shall store beer in a storage area described in Subsection (12)(a).

3404 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall  
3405 make a written beverage tab for each table or group that orders or consumes an alcoholic  
3406 product on the premises.

3407 (b) A beverage tab required by this Subsection (4) shall list the type and amount of  
3408 beer ordered or consumed.

3409 (5) A person's willingness to serve beer may not be made a condition of employment as  
3410 a server with a beer-only restaurant licensee.

3411 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the  
3412 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

3413 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant  
3414 business from the sale of food, which does not include a service charge.

3415 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except in  
3416 connection with an order for food prepared, sold, and furnished at the licensed premises.

3417 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary  
3418 facilities for food preparation and dining accommodations.

3419 (9) A patron may not have more than two beers at a time before the patron.

3420 (10) A patron may consume a beer only:

3421 (a) at:

3422 (i) the patron's table;

3423 (ii) a grandfathered bar structure; or

3424 (iii) a counter; and

3425 (b) where food is served.

3426 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to  
3427 a patron, and a patron may not consume an alcoholic product at a bar structure.

3428 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who  
3429 is 21 years of age or older may:

3430 (i) sit;

3431 (ii) be furnished a beer; and

3432 (iii) consume a beer.

3433 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a  
3434 beer-only restaurant licensee may not permit a minor to, and a minor may not:

3435 (i) sit; or

3436 (ii) consume food or beverages.

3437 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a

3438 beer-only restaurant licensee:

3439 (A) as provided in Subsection 32B-5-308(2); or

3440 (B) to perform maintenance and cleaning services during an hour when the beer-only  
3441 restaurant licensee is not open for business.

3442 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining  
3443 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in  
3444 which the minor is permitted to be.

3445 (12) A beer-only restaurant licensee may dispense a beer only if:

3446 (a) the beer is dispensed from an area that is:

3447 (i) a grandfathered bar structure; or

3448 (ii) separated from an area for the consumption of food by a patron by a solid,  
3449 translucent, permanent structural barrier such that the facilities for the storage or dispensing of  
3450 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart  
3451 from an area used for dining, for staging, or as a lobby or waiting area;

3452 (b) the beer-only restaurant licensee uses a beer that is:

3453 (i) stored in an area described in Subsection (12)(a); or

3454 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

3455 (A) immediately before the beer is dispensed it is in an unopened container;

3456 (B) the unopened container is taken to an area described in Subsection (12)(a) before it  
3457 is opened; and

3458 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

3459 (c) any instrument or equipment used to dispense the beer is located in an area  
3460 described in Subsection (12)(a).

3461 Section 62. Section **32B-8-202 (Effective 07/01/11)** is amended to read:

3462 **32B-8-202 (Effective 07/01/11). Specific licensing requirements for resort license.**

3463 (1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail  
3464 Licensing Process, a person shall submit with the written application:

3465 (a) the current business license for each sublicense, if the business license is separate  
3466 from the person's business license;

3467 (b) evidence:

3468 (i) of proximity of the resort building to any community location, with proximity



3469 requirements being governed by Section 32B-1-202;

3470 (ii) that each of the four or more sublicense premises is entirely within the boundaries  
3471 of the resort building; and

3472 (iii) that the building designated in the application as the resort building qualifies as a  
3473 resort building;

3474 (c) a description and boundary map of the resort building;

3475 (d) a description, floor plan, and boundary map of each sublicense premises  
3476 designating:

3477 (i) any location at which the person proposes that an alcoholic product be stored; and

3478 (ii) a designated location on the sublicense premises from which the person proposes  
3479 that an alcoholic product be sold, furnished, or consumed;

3480 (e) evidence that the resort license person carries dramshop insurance coverage equal  
3481 to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both  
3482 the general resort license and each sublicense; and

3483 (f) a signed consent form stating that the person will permit any authorized  
3484 representative of the commission, department, or any law enforcement officer to have  
3485 unrestricted right to enter the boundary of the resort building and each sublicense premises.

3486 (2) (a) A resort license expires on October 31 of each year.

3487 (b) To renew a person's resort license, the person shall comply with the requirements of  
3488 Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

3489 (3) (a) The nonrefundable application fee for a resort license is [~~\$250~~] \$300.

3490 (b) The initial license fee for a resort license is calculated as follows:

3491 (i) \$10,000 if four sublicenses are being applied for under the resort license; or

3492 (ii) if more than four sublicenses are being applied for under the resort license, the sum  
3493 of:

3494 (A) \$10,000; and

3495 (B) \$2,000 for each sublicense in excess of four sublicenses for which the person is  
3496 applying.

3497 (c) The renewal fee for a resort license is \$1,000 for each sublicense under the resort  
3498 license.

3499 (4) (a) The bond amount required for a resort license is the penal sum of \$25,000.

3500 (b) A resort licensee is not required to have a separate bond for each sublicense, except  
3501 that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under  
3502 the resort license.

3503 (5) The commission may not issue a resort license for a resort building that does not  
3504 meet the proximity requirements of Section 32B-1-202.

3505 Section 63. Section **32B-8-204 (Effective 07/01/11)** is amended to read:

3506 **32B-8-204 (Effective 07/01/11). Commission and department duties before issuing**  
3507 **resort license.**

3508 (1) Before the issuance of a resort license, the department shall comply with the  
3509 requirements of Subsection [~~32B-8-202~~] 32B-5-203(1) in relation to the resort license and each  
3510 sublicense.

3511 (2) Before issuing a resort license, in addition to considering the factors described in  
3512 Section 32B-8-202, the commission shall:

3513 (a) consider the resort license person's ability to manage and operate a resort license  
3514 and the ability of any individual who will act in a supervisory or managerial capacity for a  
3515 sublicense, including:

3516 (i) past management experience;

3517 (ii) past alcoholic product license experience; and

3518 (iii) the type of management scheme to be used by the resort license person;

3519 (b) consider the nature or type of:

3520 (i) the person's business operation of the resort license; and

3521 (ii) the business operation of each sublicense; and

3522 (c) subject to Subsection (3), determine that each sublicense meets the requirements  
3523 imposed under the provisions applicable to each sublicense.

3524 (3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a retail  
3525 license under the provisions applicable to a sublicense, a sublicense of a resort license is not  
3526 subject to:

3527 (i) a requirement to submit an application or renewal application that is separate from  
3528 the resort license application;

3529 (ii) a requirement to carry public liability insurance or dramshop insurance coverage  
3530 that is separate from that carried by the resort licensee; or

- 3531 (iii) a requirement to post a bond that is separate from the bond posted by the resort  
3532 licensee.
- 3533 (b) If a resort licensee seeks to add a sublicense after its resort license is issued, the  
3534 resort licensee shall file with the department:
- 3535 (i) a nonrefundable [~~\$250~~] \$300 application fee;
- 3536 (ii) an initial license fee of [~~\$2,000~~] \$2,250, which is refundable if the sublicense is not  
3537 issued;
- 3538 (iii) written consent of the local authority;
- 3539 (iv) a copy of:
- 3540 (A) the resort licensee's current business license; and
- 3541 (B) the current business license for the sublicense, if the business licensee is separate  
3542 from the resort licensee's business license;
- 3543 (v) evidence that the sublicense premises is entirely within the boundary of the resort  
3544 building;
- 3545 (vi) a description, floor plan, and boundary map of the sublicense premises  
3546 designating:
- 3547 (A) any location at which the person proposes that an alcoholic product be stored; and
- 3548 (B) any designated location on the sublicense premises from which the person proposes  
3549 that an alcoholic product be sold, furnished, or consumed;
- 3550 (vii) evidence that the person carries public liability insurance in an amount and form  
3551 satisfactory to the department;
- 3552 (viii) evidence that the person carries dramshop insurance coverage in the amount  
3553 required by Section 32B-8-202 that covers the sublicense to be added;
- 3554 (ix) a signed consent form stating that the resort licensee will permit any authorized  
3555 representative of the commission, department, or any law enforcement officer to have  
3556 unrestricted right to enter the sublicense premises;
- 3557 (x) if the resort licensee is an entity, proper verification evidencing that a person who  
3558 signs the application is authorized to sign on behalf of the entity; and
- 3559 (xi) any other information the commission or department may require.
- 3560 Section 64. Section **32B-8-304 (Effective 07/01/11)** is amended to read:
- 3561 **32B-8-304 (Effective 07/01/11). Specific operational requirements for resort spa**

3562 **sublicense.**

3563 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
3564 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a  
3565 resort spa sublicense shall comply with this section.

3566 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)  
3567 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and  
3568 Enforcement Act, against:

3569 (i) a retail licensee;

3570 (ii) staff of the retail licensee;

3571 (iii) a person otherwise related to a resort spa sublicense; or

3572 (iv) any combination of the persons listed in this Subsection (1)(b).

3573 ~~[(2) A person operating under a resort spa sublicense shall display in a prominent place  
3574 in the resort spa a list of the types and brand names of liquor being furnished through its  
3575 calibrated metered dispensing system.]~~

3576 ~~[(3)]~~ (2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure  
3577 that a record required by this title is maintained, and a record is maintained or used for the  
3578 resort spa sublicense:

3579 (i) as the department requires; and

3580 (ii) for a minimum period of three years.

3581 (b) A record is subject to inspection by an authorized representative of the commission  
3582 and the department.

3583 (c) A resort licensee shall allow the department, through an auditor or examiner of the  
3584 department, to audit the records for a resort spa sublicense at the times the department  
3585 considers advisable.

3586 (d) The department shall audit the records for a resort spa sublicense at least once  
3587 annually.

3588 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in  
3589 accordance with this Subsection ~~[(3)]~~ (2).

3590 ~~[(4)]~~ (3) (a) A person operating under a resort spa sublicense may not sell, offer for  
3591 sale, or furnish liquor at a resort spa during a period that:

3592 (i) begins at 1 a.m.; and

3593 (ii) ends at 9:59 a.m.

3594 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish  
3595 beer during the hours specified in Chapter 6, Part 7, On-premise Beer Retailer License, for an  
3596 on-premise beer retailer.

3597 (c) (i) Notwithstanding Subsections [~~(4)~~] (3)(a) and (b), a resort spa shall remain open  
3598 for one hour after the resort spa ceases the sale and furnishing of an alcoholic product during  
3599 which time a person at the resort spa may finish consuming:

3600 (A) a single drink containing spirituous liquor;

3601 (B) a single serving of wine not exceeding five ounces;

3602 (C) a single serving of heavy beer;

3603 (D) a single serving of beer not exceeding 26 ounces; or

3604 (E) a single serving of a flavored malt beverage.

3605 (ii) A resort spa is not required to remain open:

3606 (A) after all persons have vacated the resort spa sublicense premises; or

3607 (B) during an emergency.

3608 [~~(d) A person operating under a resort spa sublicense may not allow a person to remain  
3609 on the resort spa sublicense premises to consume an alcoholic product on the resort spa  
3610 sublicense premises during a period that:]~~

3611 [~~(i) begins at 2 a.m.; and]~~

3612 [~~(ii) ends at 9:59 a.m.]~~

3613 [~~(5)~~] (4) A minor may not be admitted into, use, or be on:

3614 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of  
3615 age or older; or

3616 (b) a lounge or bar area of the resort spa sublicense premises.

3617 [~~(6)~~] (5) A resort spa shall have food available at all times when an alcoholic product is  
3618 sold, offered for sale, furnished, or consumed on the resort spa sublicense premises.

3619 [~~(7)~~] (6) (a) Subject to the other provisions of this Subsection [~~(7)~~] (6), a patron may  
3620 not have more than two alcoholic products of any kind at a time before the patron.

3621 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa  
3622 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for  
3623 the other spirituous liquor drink.

3624 (c) An individual portion of wine is considered to be one alcoholic product under this  
3625 Subsection [~~(7)~~] (6).

3626 [~~(8)~~] (7) (a) An alcoholic product may only be consumed at a table or counter.

3627 (b) An alcoholic product may not be served to or consumed by a patron at a bar.

3628 [~~(9)~~] (8) (a) A person operating under a resort spa sublicense shall have available on  
3629 the resort spa sublicense premises for a patron to review at the time that the patron requests it, a  
3630 written alcoholic product price list or a menu containing the price of an alcoholic product sold  
3631 or furnished by the resort spa including:

3632 (i) a set-up charge;

3633 (ii) a service charge; or

3634 (iii) a chilling fee.

3635 (b) A charge or fee made in connection with the sale, service, or consumption of liquor  
3636 may be stated in food or alcoholic product menus including:

3637 (i) a set-up charge;

3638 (ii) a service charge; or

3639 (iii) a chilling fee.

3640 [~~(10)~~] (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's  
3641 activities.

3642 (b) A resort licensee may not maintain premises in a manner that barricades or conceals  
3643 the resort spa sublicense's operation.

3644 [~~(11)~~] (10) Subject to the other provisions of this section, a person operating under a  
3645 resort spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or  
3646 use the resort spa sublicense premises other than:

3647 (a) a resident;

3648 (b) a public customer who holds a valid customer card issued under Subsection [~~(13)~~]  
3649 (12); or

3650 (c) an invitee.

3651 [~~(12)~~] (11) A person operating under a resort spa sublicense may allow an individual to  
3652 be admitted to or use the resort spa sublicense premises as an invitee subject to the following  
3653 conditions:

3654 (a) the individual must be previously authorized by one of the following who agrees to

3655 host the individual as an invitee into the resort spa:

3656 (i) a resident; or

3657 (ii) a public customer as described in Subsection [~~(11)~~] (10);

3658 (b) the individual has only those privileges derived from the individual's host for the

3659 duration of the invitee's visit to the resort spa; and

3660 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter

3661 into an agreement or arrangement with a resident or public customer to indiscriminately host a

3662 member of the general public into the resort spa as an invitee.

3663 [~~(13)~~] (12) A person operating under a resort spa sublicense may issue a customer card

3664 to allow an individual to enter and use the resort spa sublicense premises on a temporary basis

3665 under the following conditions:

3666 (a) the resort spa may not issue a customer card for a time period that exceeds three

3667 weeks;

3668 (b) the resort spa shall assess a fee to a public customer for a customer card;

3669 (c) the resort spa may not issue a customer card to a minor; and

3670 (d) a public customer may not host more than seven invitees at one time.

3671 Section 65. Section **32B-8-401 (Effective 07/01/11)** is amended to read:

3672 **32B-8-401 (Effective 07/01/11). Specific operational requirements for resort**

3673 **license.**

3674 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

3675 Requirements, a resort licensee, staff of the resort licensee, and a person otherwise operating

3676 under a sublicense shall comply with this section.

3677 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)

3678 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and

3679 Enforcement Act, against:

3680 (i) a resort licensee;

3681 (ii) individual staff of a resort licensee;

3682 (iii) a person otherwise operating under a sublicense;

3683 (iv) individual staff of a person otherwise operating under a sublicense; or

3684 (v) any combination of the persons listed in this Subsection (1)(b).

3685 (2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product

3686 except:

3687 (i) on a sublicense premises;

3688 (ii) pursuant to a permit issued under this title; or

3689 (iii) under a package agency agreement with the department, subject to Chapter 2, Part

3690 6, Package Agency.

3691 (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as  
3692 provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

3693 (i) if on a sublicense premises, in accordance with the operational requirements under  
3694 the provisions applicable to the sublicense, except as provided in Section 32B-8-402;

3695 (ii) if under a permit issued under this title, in accordance with the operational  
3696 requirements under the provisions applicable to the permit; and

3697 (iii) if as a package agency, in accordance with the contract with the department and  
3698 Chapter 2, Part 6, Package Agency.

3699 (3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the  
3700 boundary of the resort building.

3701 (4) ~~[(a) Subject to Subsection (4)(b), a]~~ A resort licensee shall operate in a manner so  
3702 that at least 70% of the annual aggregate of the gross receipts related to the sale of food or  
3703 beverages for the resort license and each of its sublicenses is from the sale of food, not  
3704 including:

3705 ~~[(i)]~~ (a) mix for an alcoholic product; and

3706 ~~[(ii)]~~ (b) a charge in connection with the service of an alcoholic product.

3707 ~~[(b) In calculating the annual aggregate of the gross receipts described in Subsection~~  
3708 ~~(4)(a), a resort licensee is not required to include in the calculation money from the sale of a~~  
3709 ~~bottle of wine by the resort licensee or under a sublicense in excess of \$250.]~~

3710 (5) (a) A resort licensee shall supervise and direct a person involved in the sale, offer  
3711 for sale, or furnishing of an alcoholic product under a resort license.

3712 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product  
3713 under a resort license shall complete the alcohol training and education seminar.

3714 (6) (a) Room service of an alcoholic product to a lodging accommodation of a resort  
3715 licensee shall be provided in person by staff of a resort licensee only to an adult occupant in the  
3716 lodging accommodation.



3717 (b) An alcoholic product may not be left outside a lodging accommodation for retrieval  
3718 by an occupant.

3719 ~~[(c) A resort licensee may only provide an alcoholic product for room service in a  
3720 sealed package.]~~

3721 Section 66. Section **32B-8-402 (Effective 07/01/11)** is amended to read:

3722 **32B-8-402 (Effective 07/01/11). Specific operational requirements for a  
3723 sublicense.**

3724 (1) A person operating under a sublicense is subject to the operational requirements  
3725 under the provisions applicable to the sublicense except that[-];

3726 (a) notwithstanding a requirement in the provisions applicable to the sublicense, a  
3727 person operating under the sublicense is not subject to a requirement that a certain percentage  
3728 of the gross receipts for the sublicense be from the sale of food, except to the extent that the  
3729 gross receipts for the sublicense are included in calculating the percentages under Subsection  
3730 32B-8-401(4)[-]; and

3731 (b) notwithstanding Section 32B-6-202 or 32B-6-302, a bar structure in a licensed  
3732 premises operated under a full-service restaurant sublicense or limited-service restaurant  
3733 sublicense is considered a grandfathered bar structure if the resort license that includes the  
3734 full-service restaurant sublicense or limited-service restaurant sublicense is issued by no later  
3735 than December 31, 2010.

3736 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational  
3737 requirement imposed by the provisions applicable to a sublicense:

3738 (a) a requirement imposed on a person operating under a sublicense applies to the  
3739 resort licensee; and

3740 (b) a requirement imposed on staff of a person operating under a sublicense applies to  
3741 staff of the resort licensee.

3742 Section 67. Section **32B-8a-101** is enacted to read:

3743 **CHAPTER 8a. TRANSFER OF RETAIL LICENSE ACT**

3744 **Part 1. General Provisions**

3745 **32B-8a-101. Title.**

3746 This chapter is known as the "Transfer of Retail License Act."

3747 Section 68. Section **32B-8a-102** is enacted to read:

3748 **32B-8a-102. Definitions.**

3749 As used in this chapter:

3750 (1) "Business entity" means a corporation, partnership, limited liability company, sole  
3751 proprietorship, or similar entity.

3752 (2) "Transfer fee" means a fee described in Section 32B-8a-303.

3753 (3) "Transferee" means a person who intends to hold a retail license after the transfer of  
3754 the retail license if the transfer is approved by the commission under this chapter.

3755 (4) "Transferor" means a retail licensee who intends to transfer a retail license held by  
3756 the retail licensee if the transfer is approved by the commission under this chapter.

3757 Section 69. Section **32B-8a-201** is enacted to read:

3758 **Part 2. Transferability of Retail License**

3759 **32B-8a-201. Transferability of retail license.**

3760 (1) (a) A retail license is separate from other property of a retail licensee.

3761 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the  
3762 existence of any type of retail license.

3763 (c) Except as provided in this chapter, a person may not:

3764 (i) transfer a retail license from one location to another location; or

3765 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the  
3766 retail license to another person whether for monetary gain or not.

3767 (d) If approved by the commission and subject to the requirements of this chapter, a  
3768 retail licensee may transfer a retail license:

3769 (i) from the retail licensee to another person, regardless of whether it is for the same  
3770 premises; and

3771 (ii) from one premises of the retail licensee to another premises of the retail licensee.

3772 (2) The commission may not approve the transfer of a retail license that results in a  
3773 transferee holding a different type of retail license than is held by the transferor.

3774 (3) The commission may not approve the transfer of a retail license if the transferee:

3775 (a) is not eligible to hold the same type of retail license as the retail license to be  
3776 transferred at the premises to which the retail license would be transferred; or

3777 (b) is delinquent in the payment of any of the following that arises in full or in part out  
3778 of the operation of a retail license:

3779 (i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or  
3780 (ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

3781 Section 70. Section **32B-8a-202** is enacted to read:

3782 **32B-8a-202. Effect of transfer of ownership of business entity.**

3783 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is  
3784 acquired by or transferred to one or more persons who did not hold the ownership of 51% of  
3785 those shares of stock on the date a retail license is issued to the corporation, the corporation  
3786 shall comply with this chapter to transfer the retail license to the corporation as if the  
3787 corporation is newly constituted.

3788 (b) When there is a new general partner or when the ownership of 51% or more of the  
3789 capital or profits of a limited partnership is acquired by or transferred to one or more persons as  
3790 general or limited partners and who did not hold ownership of 51% or more of the capital or  
3791 profits of the limited partnership on the date a retail license is issued to the limited partnership,  
3792 the limited partnership shall comply with this chapter to transfer the retail license to the limited  
3793 partnership as if the limited partnership is newly constituted.

3794 (c) When the ownership of 51% or more of the interests in a limited liability company  
3795 is acquired by or transferred to one or more persons as members who did not hold ownership of  
3796 51% or more of the interests in the limited liability company on the date a retail license is  
3797 issued to the limited liability company, the limited liability company shall comply with this  
3798 chapter to transfer the retail license to the limited liability company as if the limited liability  
3799 company is newly constituted.

3800 (2) A business entity may not transfer a retail license under this section unless, before  
3801 the filing of the transfer application with the department, the business entity initiating the  
3802 transfer complies with Section 32B-8a-301.

3803 (3) If a business entity fails to comply with this section within 30 days of the day on  
3804 which the event described in Subsection (1) occurs, the business entity's retail license is  
3805 automatically forfeited.

3806 Section 71. Section **32B-8a-203** is enacted to read:

3807 **32B-8a-203. Operational requirements for transferee.**

3808 (1) A transferee shall begin operations of the retail license within 30 days from the day  
3809 on which a transfer is approved by the commission, except that the department may grant an

3810 extension of this time period not to exceed 30 days.

3811 (2) If a transferee fails to begin operations of the retail license within the time period  
3812 required by Subsection (1), the retail license is forfeited and the commission may issue the  
3813 retail license to another person.

3814 (3) A transferee shall begin operations of the retail license at the location to which the  
3815 transfer applies before the transferee may seek a transfer of the retail license to a different  
3816 location.

3817 Section 72. Section **32B-8a-301** is enacted to read:

3818 **Part 3. Process for Transferring a Retail License**

3819 **32B-8a-301. Notice of intended transfer.**

3820 (1) To transfer a retail license, at least 10 days before the filing of a transfer application  
3821 with the department, the transferee shall file a notice of intended transfer with the department  
3822 that states the following:

3823 (a) the name and address of the transferor;

3824 (b) the name and address of the transferee;

3825 (c) the type of retail license intended to be transferred;

3826 (d) the address of the premises to which the retail license is issued;

3827 (e) the address of the premises to which the retail license will be transferred;

3828 (f) an agreement between the transferor and the transferee that the consideration for the  
3829 transfer of the retail license, if any, is to be paid only after the transfer is approved by the  
3830 commission; and

3831 (g) any other information the commission or department may require.

3832 (2) Notwithstanding Subsection (1), a notice of intended transfer filed by a business  
3833 entity for a transfer under Section 32B-8a-202, shall state the following:

3834 (a) the name and address of the business entity;

3835 (b) the name and address of the one or more persons acquiring ownership of 51% or  
3836 more of the:

3837 (i) stock of the corporation;

3838 (ii) capital or profits of the limited partnership; or

3839 (iii) interest in a limited liability company;

3840 (c) the kind of retail license intended to be transferred;

3841 (d) the address of the one or more premises to which a retail license:

3842 (i) has been issued; and

3843 (ii) will be transferred; and

3844 (e) any other information the commission or department may require.

3845 Section 73. Section **32B-8a-302** is enacted to read:

3846 **32B-8a-302. Application -- Approval process.**

3847 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall  
3848 file a transfer application with the department that includes:

3849 (a) an application in the form provided by the department;

3850 (b) a statement as to whether the consideration, if any, to be paid to the transferor

3851 includes payment for any or all of the following:

3852 (i) inventory;

3853 (ii) fixtures; and

3854 (iii) transfer of the retail license;

3855 (c) a copy of the notice of intended transfer; and

3856 (d) (i) an application fee of \$300; and

3857 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

3858 (2) (a) (i) Before the commission may approve the transfer of a retail license, the  
3859 department shall conduct an investigation and may hold public hearings to gather information  
3860 and make recommendations to the commission as to whether the transfer of the retail license  
3861 should be approved.

3862 (ii) The department shall forward the information and recommendations described in  
3863 this Subsection (2)(a) to the commission to aid in the commission's determination.

3864 (b) Before approving a transfer, the commission shall:

3865 (i) determine that the transferee filed a complete application;

3866 (ii) determine that the transferee is eligible to hold the type of retail license that is to be  
3867 transferred at the premises to which the retail license would be transferred;

3868 (iii) determine that the transferee is not delinquent in the payment of an amount  
3869 described in Subsection 32B-8a-201(3);

3870 (iv) determine that the transferee is not disqualified under Section 32B-1-304;

3871 (v) consider the locality within which the proposed licensed premises is located.

3872 including the factors listed in Section 32B-5-206 for the issuance of a retail license;  
3873 (vi) consider the transferee's ability to manage and operate the retail license to be  
3874 transferred, including the factors listed in Section 32B-5-202 for the issuance of a retail license;  
3875 (vii) consider the nature or type of retail licensee operation of the transferee, including  
3876 the factors listed in Section 32B-5-202 for the issuance of a retail license;  
3877 (viii) if the transfer involves consideration, determine that the transferee and transferor  
3878 have complied with Part 4, Protection of Creditors; and  
3879 (ix) consider any other factor the commission considers necessary.  
3880 (3) (a) Except as provided in Subsection (3)(b), the commission may not approve the  
3881 transfer of a retail license to premises that do not meet the proximity requirements of Section  
3882 32B-1-202.  
3883 (b) If after a transfer of a retail license the transferee operates the same type of retail  
3884 license at the same location as did the transferor, the commission may waive or vary the  
3885 proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the  
3886 transfer under the same circumstances that the commission may waive or vary the proximity  
3887 requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a  
3888 retail license.  
3889 Section 74. Section **32B-8a-303** is enacted to read:  
3890 **32B-8a-303. Transfer fees.**  
3891 (1) Except as otherwise provided in this section, the department shall charge the  
3892 following transfer fees:  
3893 (a) for a transfer of a retail license from a retail licensee to another person, the transfer  
3894 fee equals the initial license fee amount specified in the relevant part under Chapter 6, Specific  
3895 Retail License Act, for the type of retail license that is being transferred;  
3896 (b) for the transfer of a retail license from one premises to another premises of the  
3897 same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant  
3898 part under Chapter 6, Specific Retail License Act, for the type of retail license that is being  
3899 transferred;  
3900 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section  
3901 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant part under  
3902 Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;

3903 (d) for a transfer of a retail license to include the parent or child of a retail licensee,  
3904 when no consideration is given for the transfer, the transfer fee is one-half of the amount  
3905 described in Subsection (1)(a); and

3906 (e) for one of the following transfers, the transfer fee is one-half of the amount  
3907 described in Subsection (1)(a):

3908 (i) a retail license of one spouse to the other spouse when the transfer application is  
3909 made before the entry of a final decree of divorce;

3910 (ii) a retail license of a deceased retail licensee to:

3911 (A) the one or more surviving partners of the deceased retail licensee;

3912 (B) the executor, administrator, or conservator of the estate of the deceased retail  
3913 licensee; or

3914 (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee  
3915 leaves no estate to be administered;

3916 (iii) a retail license of a minor ward, incompetent person, or conservatee by or to the  
3917 conservator or guardian for the minor ward, incompetent person, or conservatee who is the  
3918 retail licensee;

3919 (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt  
3920 estate of the retail licensee;

3921 (v) a retail license of a person for whose estate a receiver is appointed may be  
3922 transferred by or to a receiver of the estate of the retail licensee;

3923 (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for  
3924 the benefit of creditors of a licensee with the consent of the assignor;

3925 (vii) a retail license transferred to a revocable living trust if the retail licensee is the  
3926 trustee of the revocable living trust;

3927 (viii) a retail license transferred between partners when no new partner is being  
3928 licensed;

3929 (ix) a retail license transferred between corporations whose outstanding shares of stock  
3930 are owned by the same individuals;

3931 (x) upon compliance with Section 32B-8a-202, a retail license to a corporation whose  
3932 entire stock is owned by:

3933 (A) the transferor; or

3934 (B) the spouse of the transferor;  
3935 (xi) upon compliance with Section 32B-8a-202, a retail license to a limited liability  
3936 company whose entire membership consists of:

3937 (A) the transferor; or

3938 (B) the spouse of the transferor; or

3939 (xii) a retail license transferred from a corporation to a person who owns, or whose  
3940 spouse owns, the entire stock of the corporation.

3941 (2) If there are multiple and simultaneous transfers of retail licenses under Section  
3942 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the retail  
3943 licenses being transferred.

3944 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under  
3945 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xiii) if the  
3946 subsequent transfer is of 51% of the stock in a corporation to which a retail license is  
3947 transferred by a retail licensee or the spouse of a retail licensee.

3948 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's  
3949 child or grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).

3950 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.  
3951 Section 75. Section **32B-8a-401** is enacted to read:

#### Part 4. Protection of Creditors

3953 **32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.**

3954 (1) Before the filing of a transfer application with the department, if the intended  
3955 transfer of a retail license involves consideration:

3956 (a) the transferor shall provide the transferee a list of creditors who have a claim  
3957 against the transferor;

3958 (b) the transferee shall provide a copy of the notice of intended transfer to each creditor  
3959 on the list provided under Subsection (1)(a);

3960 (c) the transferor and the transferee shall establish an escrow with a person who is not a  
3961 party to the transfer to act as escrow holder;

3962 (d) the transferee shall deposit with the escrow holder the full amount of the  
3963 consideration; and

3964 (e) the transferor and transferee shall enter into an agreement that:



- 3965 (i) the consideration is deposited with the escrow holder;  
3966 (ii) requires the escrow holder to distribute the consideration within a reasonable time  
3967 after the completion of the transfer of the retail license; and  
3968 (iii) directs the escrow holder to distribute the consideration in accordance with  
3969 Subsection (2).
- 3970 (2) Subject to the other requirements of this section, if a creditor with a claim against  
3971 the transferor files the claim with the escrow holder before the escrow holder is notified by the  
3972 department that the transfer is approved, the escrow holder shall distribute the consideration in  
3973 the following order:
- 3974 (a) to the payment of:
- 3975 (i) the United States for a claim based on income or withholding taxes; and  
3976 (ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);
- 3977 (b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued  
3978 by an employee of the transferor before the transfer or opening of the escrow for the transfer of  
3979 the retail license;
- 3980 (c) to the payment of a claim of a secured creditor to the extent of the proceeds that  
3981 arise from the sale of the security;
- 3982 (d) to the payment of a claim on a mechanics liens;
- 3983 (e) to the payment of:
- 3984 (i) escrow fees;  
3985 (ii) a claim for prevailing brokerage fees for services rendered; and  
3986 (iii) a claim for reasonable attorney fees for services rendered;
- 3987 (f) to the payment of claims:
- 3988 (i) of a landlord, to the extent of proceeds on past due rent or lease requirements;  
3989 (ii) for goods sold and delivered to the retail licensee for resale at the transferor's  
3990 licensed premises; and
- 3991 (iii) for services rendered, performed, or supplied in connection with the operation of  
3992 the transferor's licensed business; and
- 3993 (g) to the payment of other types of claims that are reduced to court-ordered judgments,  
3994 including a claim for court-ordered support of a minor child; and
- 3995 (h) to the payment of all other claims.

3996 Section 76. Section **32B-8a-402** is enacted to read:

3997 **32B-8a-402. Duties of escrow holder.**

3998 (1) To act as an escrow holder under Section 32B-8a-401, a person shall comply with  
3999 Title 7, Chapter 22, Regulation of Independent Escrow Agents.

4000 (2) Not more than 10 days after receiving a claim from a creditor, an escrow holder  
4001 shall acknowledge receipt of the claim.

4002 (3) (a) Not more than 10 days after a retail license is transferred and before the  
4003 distribution of the consideration held by an escrow holder, the escrow holder shall advise each  
4004 creditor who files a claim against the escrow whether there is sufficient consideration in the  
4005 escrow to pay all creditors in full.

4006 (b) If the consideration in an escrow is sufficient to pay all creditors in full, the escrow  
4007 holder shall advise each creditor of the date on or before which payment will be made.

4008 (c) If there are not sufficient assets to pay all creditors in full, the escrow holder shall  
4009 advise each creditor who filed a claim of the following:

4010 (i) the total assets placed in escrow with the escrow holder;

4011 (ii) the nature of each asset;

4012 (iii) the name of each creditor who filed a claim against the escrow and the amount of  
4013 the claim;

4014 (iv) the amount the escrow holder proposes to pay each creditor; and

4015 (v) the date on or before which the escrow holder will pay each creditor.

4016 (4) An escrow holder may not release money in the escrow in exchange for:

4017 (a) a promissory note; or

4018 (b) any other consideration of less value to the creditors than the money exchanged.

4019 (5) If sufficient assets are not available in the escrow for the payment of the claims in  
4020 full, the escrow holder shall pay the claims pro rata.

4021 (6) If the retail licensee who transfers the retail license disputes a claim, the escrow  
4022 holder shall:

4023 (a) notify the creditor making the claim;

4024 (b) retain the amount to be paid to the creditor under this section for a period of 25  
4025 days; and

4026 (c) to the extent that creditors do not successfully recover the amount described in

4027 Subsection (6)(b) in accordance with this part, pay the amount to the retail licensee.

4028 (7) An escrow holder shall distribute the money in the escrow account after the  
4029 payments made under Subsections 32B-8a-401(2) and this section within a reasonable time  
4030 after the completion of the transfer of the retail license.

4031 Section 77. Section **32B-8a-403** is enacted to read:

4032 **32B-8a-403. Statement by transferee.**

4033 (1) Within 30 days after the filing of a transfer application under Section 32B-8a-302  
4034 for transfer of a retail license, the transferee shall file with the department a statement executed  
4035 under penalty of perjury that the consideration as set forth in the escrow agreement required by  
4036 Section 32B-8a-401 is deposited with the escrow holder.

4037 (2) At the time the statement described in Subsection (1) is filed with the department,  
4038 the transferee shall submit a copy of the statement to:

4039 (a) the transferee; and

4040 (b) the escrow holder.

4041 (3) The department may extend the 30-day period specified by this section for a period  
4042 not to exceed an additional 30 days, except that a retail license may not be transferred until the  
4043 statement required by this section is received by the department.

4044 (4) This section does not apply to a transfer for which a guaranty of payment is filed  
4045 pursuant to Section 32B-8a-404.

4046 Section 78. Section **32B-8a-404** is enacted to read:

4047 **32B-8a-404. When escrow not required.**

4048 (1) Notwithstanding the other provisions of this part, an escrow is not required to be  
4049 established in connection with the transfer of a retail license if:

4050 (a) a business entity files with the department a guaranty of full, prompt, and faithful  
4051 payment of all claims of a creditor of the retail licensee; and

4052 (b) the guaranty described in Subsection (1)(a) is accepted in writing by the creditors  
4053 listed in Subsection 32B-8a-401(2).

4054 (2) A transfer of a retail license described in Subsection (1) is not considered complete  
4055 until:

4056 (a) the guarantor pays all creditors' claims in full; and

4057 (b) the guarantor files with the department a statement executed under penalty of

4058 perjury that all conditions of the transfer have been satisfied.

4059 (3) Payment of a claim by a guarantor shall be made in United States currency or by  
4060 certified check in a manner acceptable to the creditors.

4061 (4) This section applies only in the case of a transfer in which the guarantor business  
4062 entity has a net worth on a consolidated basis, according to its most recent audited financial  
4063 statement, of not less than \$5,000,000.

4064 Section 79. Section **32B-8a-501** is enacted to read:

4065 **Part 5. Prohibited Activities**

4066 **32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

4067 (1) A retail licensee may not enter into any agreement under which the retail licensee  
4068 pledges the retail license as security for a loan or as security for the fulfillment of any  
4069 agreement.

4070 (2) A retail licensee may not transfer a retail license if the transfer is to:

4071 (a) satisfy a loan or to fulfill an agreement entered into more than 90 days preceding  
4072 the date on which the transfer application is filed;

4073 (b) gain or establish a preference to or for any creditor of the transferor, except as  
4074 provided by Section 32B-8a-202; or

4075 (c) defraud or injure a creditor of the transferor.

4076 (3) A retail licensee may not transfer a retail license except in accordance with this  
4077 chapter.

4078 Section 80. Section **32B-8a-502** is enacted to read:

4079 **32B-8a-502. Effect of transfer in violation of this chapter.**

4080 (1) If a retail license is transferred in violation of this chapter, the commission may:

4081 (a) void the transfer; and

4082 (b) require the retail license to be forfeited.

4083 (2) Subsection (1) is in addition to any other penalty under this title that is applicable to  
4084 the person who violates this chapter.

4085 Section 81. Section **32B-9-204 (Effective 07/01/11)** is amended to read:

4086 **32B-9-204 (Effective 07/01/11). General operational requirements for an event**  
4087 **permit.**

4088 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or

4089 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply  
4090 with this title and rules of the commission.

4091 (b) Failure to comply as provided in Subsection (1)(a):

4092 (i) may result in:

4093 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and  
4094 Enforcement Act, against:

4095 (I) an event permittee;

4096 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic  
4097 product at the event; or

4098 (III) any combination of the persons listed in this Subsection (1)(b);

4099 (B) immediate revocation of the event permit;

4100 (C) forfeiture of a bond; or

4101 (D) immediate seizure of an alcoholic product present at the event; and

4102 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an  
4103 event permit for a period of three years from the date of revocation of the event permit.

4104 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event  
4105 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

4106 (2) (a) If there is a conflict between this part and the relevant part under this chapter for  
4107 the specific type of special use permit held by the special use permittee, the relevant part  
4108 governs.

4109 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an  
4110 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the  
4111 relevant part under this chapter for the type of event permit that is held by the event permittee.

4112 (c) Notwithstanding that this part or the relevant part under this chapter for the type of  
4113 event permit held by an event permittee refers to "event permittee," a person involved in the  
4114 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the  
4115 event permit is issued is subject to the same requirement or prohibition.

4116 (3) An event permittee shall display a copy of the event permit in a prominent place in  
4117 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

4118 (4) An event permittee may not on the premises of the event:

4119 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,

4120 Chapter 10, Part 11, Gambling;

4121 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
4122 Part 11, Gambling; or

4123 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
4124 the risking of something of value for a return or for an outcome when the return or outcome is  
4125 based upon an element of chance, excluding the playing of an amusement device that confers  
4126 only an immediate and unrecorded right of replay not exchangeable for value.

4127 (5) An event permittee may not knowingly allow a person at an event to, in violation of  
4128 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug  
4129 Paraphernalia Act:

4130 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
4131 58-37-2; or

4132 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
4133 Section 58-37a-3.

4134 (6) An event permittee may not sell, offer for sale, or furnish beer except beer  
4135 purchases from:

4136 (a) a beer wholesaler licensee;

4137 (b) a beer retailer; or

4138 (c) a small brewer.

4139 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the  
4140 consumption of an alcoholic product purchased for an event in a location other than that  
4141 described in the application and designated on the event permit unless the event permittee first  
4142 applies for and receives approval from the commission for a change of location.

4143 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or  
4144 furnish beer for on-premise consumption:

4145 (i) in an open original [~~package~~] container; and

4146 (ii) in a [~~package~~] container on draft.

4147 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to  
4148 Subsection (8)(a):

4149 (i) in a size of [~~package~~] container that exceeds two liters; or

4150 (ii) to an individual patron in a size of [~~package~~] container that exceeds one liter.

4151 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less  
4152 than the cost of the alcoholic product to the event permittee.

4153 (b) An event permittee may not sell or offer for sale an alcoholic product at a price that  
4154 encourages over consumption or intoxication.

4155 (c) An event permittee may not sell or offer for sale an alcoholic product at a special or  
4156 reduced price for only certain hours of the day of an event.

4157 (d) An event permittee may not sell, offer for sale, or furnish more than one alcoholic  
4158 product at the price of a single alcoholic product.

4159 (e) An event permittee, or a person operating, selling, offering, or furnishing an  
4160 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or  
4161 unlimited number of alcoholic products during a set period for a fixed price.

4162 [~~(e)~~] (f) An event permittee may not engage in a public promotion involving or offering  
4163 a free alcoholic product to the general public.

4164 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

4165 (a) a minor;

4166 (b) a person actually, apparently, or obviously intoxicated;

4167 (c) a known interdicted person; or

4168 (d) a known habitual drunkard.

4169 (11) (a) An alcoholic product is considered under the control of the event permittee  
4170 during an event.

4171 (b) A patron at an event may not bring an alcoholic product onto the premises of the  
4172 event.

4173 (12) An event permittee may not permit a patron to carry from the premises an open  
4174 ~~[package]~~ container that:

4175 (a) is used primarily for drinking purposes; and

4176 (b) contains an alcoholic product.

4177 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at  
4178 an event is considered under the supervision and direction of the event permittee.

4179 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at  
4180 an event may not, while on duty:

4181 (i) consume an alcoholic product; or

4182 (ii) be intoxicated.

4183 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an  
4184 event.

4185 (15) The location specified in an event permit may not be changed without prior  
4186 written approval of the commission.

4187 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or  
4188 attempt in any way to dispose of the event permit to another person whether for monetary gain  
4189 or not.

4190 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the  
4191 consumption of an alcoholic product during a period that:

4192 (i) begins at 1 a.m.; and

4193 (ii) ends at 9:59 a.m.

4194 (b) This Subsection (17) does not preclude a local authority from being more restrictive  
4195 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic  
4196 product at an event.

4197 (18) A patron may have no more than one alcoholic product of any kind at a time  
4198 before the patron.

4199 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters  
4200 that consists of text in the following order:

4201 (i) a header that reads: "WARNING";

4202 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
4203 can cause birth defects and permanent brain damage for the child.";

4204 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at  
4205 [insert most current toll-free number] with questions or for more information.";

4206 (iv) a header that reads: "WARNING"; and

4207 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
4208 serious crime that is prosecuted aggressively in Utah."

4209 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different  
4210 font style than the text described in Subsections (19)(a)(iv) and (v).

4211 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the  
4212 same font size.



4213 (c) The Department of Health shall work with the commission and department to  
4214 facilitate consistency in the format of a sign required under this section.

4215 Section 82. Section **32B-9-304 (Effective 07/01/11)** is amended to read:

4216 **32B-9-304 (Effective 07/01/11). Specific permitting requirements for single event**  
4217 **permit.**

4218 (1) To obtain a single event permit, in addition to complying with Part 2, Event  
4219 Permitting General Provisions, an entity described in Subsection 32B-9-303(2)(a) shall state in  
4220 its written application:

4221 (a) the purpose of the entity described in Subsection 32B-9-303(2)(a);

4222 (b) the time period under Subsection 32B-9-303(3)(a)(i)(A) or (B) for which the entity  
4223 is applying; and

4224 (c) if submitting the first request for a single event permit in a calendar year, whether it  
4225 is requesting to be under Subsection 32B-9-303(4)(a) or (b).

4226 (2) The application fee for a single event permit is [~~\$100~~] \$125.

4227 (3) The bond amount required for a single event permit is the penal sum of \$1,000.

4228 Section 83. Section **32B-9-305 (Effective 07/01/11)** is amended to read:

4229 **32B-9-305 (Effective 07/01/11). Specific operational requirements for single event**  
4230 **permit.**

4231 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a  
4232 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the  
4233 event shall comply with this section.

4234 (b) Failure to comply as provided in Subsection (1)(a):

4235 (i) may result in:

4236 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and  
4237 Enforcement Act, against:

4238 (I) a single event permittee;

4239 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic  
4240 product at the event; or

4241 (III) any combination of persons listed in this Subsection (1)(b);

4242 (B) immediate revocation of the single event permit;

4243 (C) forfeiture of a bond; or

4244 (D) immediate seizure of an alcoholic product present at the event; and  
4245 (ii) if the single event permit is revoked, disqualifies the single event permittee from  
4246 applying for a single event permit or temporary beer event permit for a period of three years  
4247 from the date of revocation of the single event permit.

4248 (c) An alcoholic product seized under this Subsection (1) shall be returned to the single  
4249 event permittee after an event if forfeiture proceedings are not instituted under Section  
4250 32B-4-206.

4251 (2) (a) A single event permittee shall make and maintain an expense and revenue  
4252 ledger or record showing:

4253 (i) expenditures made for:

4254 (A) liquor;

4255 (B) beer;

4256 (C) set-ups; and

4257 (D) an ingredient or component of an alcoholic product other than a set-up; and

4258 (ii) the revenue from the sale of an alcoholic product.

4259 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
4260 accordance with this Subsection (2).

4261 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,  
4262 furnished, or consumed at an event from a state store or package agency.

4263 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary  
4264 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional  
4265 spirituous liquor may be used in a beverage if:

4266 (i) used as a secondary flavoring ingredient;

4267 (ii) used in conjunction with the primary spirituous liquor;

4268 (iii) the secondary ingredient is not the only spirituous liquor in the beverage; and

4269 (iv) subject to Subsection 32B-9-204(18):

4270 [~~(iv)~~] (A) a patron has no more than 2.5 ounces of spirituous liquor at a time before the  
4271 patron; and

4272 [~~(v)~~] (B) a patron has no more than one spirituous liquor drink at a time before the  
4273 patron.

4274 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing

4275 system.

4276 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or  
4277 an individual portion, except that a glass or individual portion may not exceed five ounces.

4278 (b) A single event permittee may furnish an individual portion served to a patron in  
4279 more than one glass if the total amount of wine does not exceed five ounces.

4280 (c) An individual portion of wine is considered to be one alcoholic product under  
4281 Subsection 32B-9-204~~(12)~~(18).

4282 (d) A single event permittee may sell, offer for sale, or furnish wine in a [package]  
4283 container not exceeding 1.5 liters at a price fixed by the commission.

4284 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original  
4285 [package] container at a price fixed by the commission, except that the original [package]  
4286 container may not exceed one liter.

4287 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage  
4288 in an original [package] container at a price fixed by the commission, except that the original  
4289 [package] container may not exceed one liter.

4290 (8) (a) A single event permittee may sell liquor only at a price fixed by the  
4291 commission.

4292 (b) A single event permittee may not sell liquor at a discount price on any date or at  
4293 any time.

4294 (9) A single event permittee may perform a service and assess a service charge as  
4295 authorized by commission rule for liquor purchased at an event.

4296 Section 84. Section **32B-9-405 (Effective 07/01/11)** is amended to read:

4297 **32B-9-405 (Effective 07/01/11). Specific permitting requirements for temporary**  
4298 **beer event permit issued by commission.**

4299 (1) To obtain a temporary beer event permit, in addition to complying with Part 2,  
4300 Event Permitting General Provisions, a person shall state in the person's written application the  
4301 purpose of the event for which the person seeks a temporary beer event permit.

4302 (2) The application fee for a beer permit is [~~\$75~~] \$100.

4303 (3) The bond amount required for a beer permit is the penal sum of \$500.

4304 Section 85. Section **32B-10-303 (Effective 07/01/11)** is amended to read:

4305 **32B-10-303 (Effective 07/01/11). Specific application and renewal requirements**

4306 **for public service permit.**

4307 (1) To obtain a public service permit, in addition to complying with Section  
4308 32B-10-202, a person shall submit to the department:

4309 (a) a statement of the total of regularly numbered flights, trains, buses, boats, or other  
4310 types of public conveyance for which the person plans to use the special use permit;

4311 (b) a floor plan of any room or facility in which the person plans to establish a  
4312 hospitality room where the sale, offer for sale, or furnishing of an alcoholic product is made to  
4313 a patron then in transit, using the host company's airline, railroad, bus, boat, or other public  
4314 conveyance; and

4315 (c) evidence of proximity of a proposed hospitality room to the arrival and departure  
4316 area used by a person traveling on the host company's airline, railroad, bus, boat, or other  
4317 public conveyance.

4318 (2) (a) The nonrefundable application fee for a public service permit is [~~\$50~~] \$75.

4319 (b) The initial permit fee for a public service permit is [~~\$200~~] \$250.

4320 (c) The bond amount required for a public service permittee is the penal sum of \$1,000.

4321 (3) (a) To renew a public service permit, a person shall comply with Section  
4322 32B-10-203.

4323 (b) The renewal fee for a public service permit is \$30 for each regularly numbered  
4324 passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public  
4325 conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

4326 Section 86. Section **32B-10-304 (Effective 07/01/11)** is amended to read:

4327 **32B-10-304 (Effective 07/01/11). Specific operational requirements for a public**  
4328 **service permit.**

4329 (1) (a) In addition to complying with Section 32B-10-206, a public service permittee  
4330 and staff of the public service permittee shall comply with this section.

4331 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
4332 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

4333 (i) a public service permittee;

4334 (ii) individual staff of a public service permittee; or

4335 (iii) both a public service permittee and staff of the public service permittee.

4336 (2) (a) A public service permittee whose public conveyances operate on an interstate

4337 basis may do the following:

- 4338 (i) purchase an alcoholic product outside of the state;
- 4339 (ii) bring an alcoholic product purchased outside of the state into the state; and
- 4340 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state
- 4341 to a passenger traveling on the public service permittee's public conveyance for consumption
- 4342 while en route on the public conveyance.

4343 (b) A public service permittee whose public conveyance operates solely within the

4344 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's

4345 public conveyance for consumption while en route on the public conveyance, shall purchase:

- 4346 (i) liquor from a state store or package agency; and
- 4347 (ii) beer from a beer wholesaler licensee.

4348 (3) (a) A public service permittee may establish a hospitality room in which an

4349 alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

- 4350 (i) the room is located within a depot, terminal, or similar facility adjacent to and
- 4351 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;
- 4352 (ii) the room is completely enclosed and the interior is not visible to the public;
- 4353 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a
- 4354 person:

4355 (A) then in transit using the host company's airline, railroad, bus line, or other public

4356 conveyance; and

4357 (B) holding a valid boarding pass or similar travel document issued by the host

4358 company; and

4359 (iv) (A) liquor is purchased from:

4360 (I) a state store; or

4361 (II) a package agency; and

4362 (B) beer is purchased from a beer wholesaler licensee.

4363 (b) (i) A public service permittee operating a hospitality room shall display in a

4364 prominent place in the hospitality room, a sign in large letters [~~stating: "Warning: Driving~~

4365 ~~under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in~~

4366 ~~Utah."~~] that consists of text in the following order:

4367 (A) a header that reads: "WARNING";

4368 (B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
4369 can cause birth defects and permanent brain damage for the child.";

4370 (C) a statement in smaller font that reads: "Call the Utah Department of Health at  
4371 [insert most current toll-free number] with questions or for more information.";

4372 (D) a header that reads: "WARNING"; and

4373 (E) a warning statement that reads: "Driving under the influence of alcohol or drugs is  
4374 a serious crime that is prosecuted aggressively in Utah."

4375 (ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a  
4376 different font style than the text described in Subsections (3)(b)(i)(D) and (E).

4377 (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the  
4378 same font size.

4379 (iii) The Department of Health shall work with the commission and department to  
4380 facilitate consistency in the format of a sign required under this section.

4381 (c) A hospitality room shall be operated in accordance with this chapter and rules  
4382 adopted by the commission.

4383 Section 87. Section **32B-10-403 (Effective 07/01/11)** is amended to read:

4384 **32B-10-403 (Effective 07/01/11). Specific application requirements for industrial**  
4385 **or manufacturing use permit.**

4386 (1) To obtain an industrial or manufacturing use permit, in addition to complying with  
4387 Section 32B-10-202, a person shall submit to the department:

4388 (a) a floor plan of the immediate area within the premises in which the person proposes  
4389 that an alcoholic product be used, mixed, stored, sold, offered for sale, furnished, or consumed;  
4390 and

4391 (b) if the person is applying for an industrial or manufacturing use permit to produce  
4392 gasohol or any alcoholic product, evidence that the person has:

4393 (i) an approved Notice of Registration of Distilled Spirits Plant; and

4394 (ii) the appropriate permit from the federal Alcohol and Tobacco Tax and Trade  
4395 Bureau.

4396 (2) (a) The nonrefundable application fee for an industrial or manufacturing use permit  
4397 is [~~\$50~~] \$75.

4398 (b) The one-time special use permit fee for an industrial or manufacturing use permit is

4399 [~~\$200~~] \$250.

4400 (c) The bond amount required for an industrial or manufacturing use permit is the  
4401 penal sum of \$1,000.

4402 Section 88. Section **32B-10-404 (Effective 07/01/11)** is amended to read:

4403 **32B-10-404 (Effective 07/01/11). Specific operational requirements for industrial**  
4404 **or manufacturing use permit.**

4405 (1) (a) In addition to complying with Section 32B-10-206, an industrial or  
4406 manufacturing use permittee and staff of the industrial or manufacturing use permittee shall  
4407 comply with this section.

4408 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
4409 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

4410 (i) an industrial or manufacturing use permittee;

4411 (ii) individual staff of an industrial or manufacturing use permittee; or

4412 (iii) an industrial or manufacturing use permittee and staff of the industrial or  
4413 manufacturing use permittee.

4414 (2) An industrial or manufacturing use permittee may produce for lawful use and sale  
4415 the following:

4416 (a) vinegar;

4417 (b) preserved nonintoxicating cider;

4418 (c) a food preparation;

4419 (d) a United States Pharmacopoeia or national formulary preparation in conformity  
4420 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

4421 (i) conforms to standards established by:

4422 (A) the Department of Agriculture and Food; and

4423 (B) the Department of Health; and

4424 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,  
4425 flavoring, or perfumed properties of the treated substances; and

4426 (e) wood and denatured alcohol if manufactured in compliance with the formulas and  
4427 regulations under Title 27, C.F.R. Parts 19, 20, and 21.

4428 (3) (a) An industrial or manufacturing use permittee that produces patent or proprietary  
4429 medicines containing alcohol may sell or offer for sale the medicines in the original and

4430 unbroken [~~package~~] container if the medicine contains sufficient medication to prevent its use  
4431 as an alcoholic product.

4432 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall,  
4433 upon request by the department, provide a sufficient sample of the medicine to enable the  
4434 department to have the medicine analyzed for purposes of this section.

4435 Section 89. Section **32B-10-503 (Effective 07/01/11)** is amended to read:

4436 **32B-10-503 (Effective 07/01/11). Specific application requirements for scientific**  
4437 **or educational use permit.**

4438 (1) To obtain a scientific or educational use permit, a person shall comply with Section  
4439 32B-10-202.

4440 (2) The one-time special use permit fee for a scientific or educational use permit is  
4441 [~~\$100~~] \$125.

4442 Section 90. Section **32B-10-603 (Effective 07/01/11)** is amended to read:

4443 **32B-10-603 (Effective 07/01/11). Specific application requirements for religious**  
4444 **wine use permit.**

4445 (1) To purchase an alcoholic product from the department at the department's cost plus  
4446 freight charges, a religious organization shall obtain a religious wine use permit.

4447 (2) To obtain a religious wine permit, a person shall comply with Section 32B-10-202.

4448 (3) The one-time special use permit fee for a religious wine use permit is [~~\$100~~] \$125.

4449 Section 91. Section **32B-11-201 (Effective 07/01/11)** is amended to read:

4450 **32B-11-201 (Effective 07/01/11). Commission's power to issue a manufacturing**  
4451 **license -- Certificates of approval for brewers, importers, suppliers.**

4452 (1) (a) Except as provided in Section 32B-11-202, before a person may manufacture an  
4453 alcoholic product in this state, the person shall obtain an alcoholic product manufacturing  
4454 license issued by the commission in accordance with this part.

4455 (b) A separate license is required for each place of storage, sale, and manufacture of an  
4456 alcoholic product.

4457 (c) A violation of this Subsection (1) is a class B misdemeanor.

4458 (2) The commission may issue an alcoholic product manufacturing license to a  
4459 manufacturer whose business is located in this state for the storage, sale, and manufacture of an  
4460 alcoholic product for each type of manufacturing license provided by this chapter.



- 4461 (3) The types of manufacturing licenses issued under this chapter are known as:
- 4462 (a) a winery manufacturing license;
- 4463 (b) a distillery manufacturing license; and
- 4464 (c) a brewery manufacturing license.
- 4465 (4) (a) A brewer located outside the state is not required to be licensed under this
- 4466 chapter.
- 4467 (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from
- 4468 the department before selling or delivering:
- 4469 (i) beer to a beer wholesaler licensee in this state;
- 4470 (ii) a flavored malt beverage to:
- 4471 (A) the department; or
- 4472 (B) a military installation; or
- 4473 (iii) if a small brewer, beer to one of the following in the state:
- 4474 (A) a beer wholesaler licensee;
- 4475 (B) a beer retailer; or
- 4476 (C) an event permittee.
- 4477 (c) To obtain a certificate of approval, a brewer shall submit to the department:
- 4478 (i) a written application in a form prescribed by the department;
- 4479 (ii) a nonrefundable [~~\$50~~] \$75 application fee;
- 4480 (iii) an initial certificate of approval fee of [~~\$250~~] \$300 that is refundable if a
- 4481 certificate of approval is not issued;
- 4482 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau
- 4483 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt
- 4484 beverage; and
- 4485 (v) any other information the commission or department may require.
- 4486 (d) (i) [~~A~~] One of the following shall sign and verify a written application under this
- 4487 Subsection (4) [~~shall be signed and verified~~] by oath or affirmation [~~by~~]:
- 4488 (A) a partner if the brewer is a partnership; or
- 4489 (B) an executive officer, manager, or person specifically authorized by a corporation or
- 4490 limited liability company to sign the application.
- 4491 (ii) A brewer filing an application shall attach to the application written evidence of the

4492 authority of the person described in Subsection (4)(d)(i) to sign the application.

4493 (e) (i) A certificate of approval under this Subsection (4) expires on December 31 of  
4494 each year.

4495 (ii) A brewer desiring to renew its certificate of approval shall submit to the  
4496 department by no later than November 30 of the year the certificate of approval expires:

4497 (A) a completed renewal application in the form prescribed by the department; and

4498 (B) a renewal [~~fee~~] fee of [~~\$200~~] \$250.

4499 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the  
4500 certificate of approval effective on the date the existing certificate of approval expires.

4501 (5) (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is  
4502 not required to be licensed under this title shall obtain a certificate of approval from the  
4503 department before selling or delivering:

4504 (i) beer to a beer wholesaler licensee in this state; or

4505 (ii) heavy beer or a flavored malt beverage to:

4506 (A) the department; or

4507 (B) a military installation.

4508 (b) To obtain a certificate of approval, an importer or supplier described in Subsection  
4509 (5)(a) shall submit to the department:

4510 (i) a written application in a form prescribed by the department;

4511 (ii) a nonrefundable \$75 application fee;

4512 (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of  
4513 approval is not issued;

4514 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau  
4515 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt  
4516 beverage; and

4517 (v) any other information the commission or department may require.

4518 (c) (i) One of the following shall sign and verify a written application under this  
4519 Subsection (5) by oath or affirmation:

4520 (A) a partner if the importer or supplier is a partnership; or

4521 (B) an executive officer, manager, or person specifically authorized by a corporation or  
4522 limited liability company to sign the application.

4523 (ii) An importer or supplier filing an application under this Subsection (5) shall attach  
4524 to the application written evidence of the authority of the person described in Subsection  
4525 (5)(c)(i) to sign the application.

4526 (d) (i) A certificate of approval under this Subsection (5) expires on December 31 of  
4527 each year.

4528 (ii) An importer or supplier desiring to renew its certificate of approval shall submit to  
4529 the department by no later than November 30 of the year the certificate of approval expires:

4530 (A) a completed renewal application in the form prescribed by the department; and

4531 (B) a renewal fee of \$250.

4532 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the  
4533 certificate of approval effective on the date the existing certificate of approval expires.

4534 (6) (a) Subject to Subsection (7), a brewer, importer, or supplier required to hold a  
4535 certificate of approval under this section may not distribute beer in this state except under a  
4536 written agreement with a beer wholesaler licensee in this state.

4537 (b) An agreement described in Subsection (6)(a) shall:

4538 (i) create a restricted exclusive sales territory that is mutually agreed upon by the  
4539 persons entering into the agreement;

4540 (ii) designate the one or more brands that may be distributed in the sales territory; and

4541 (iii) set forth the exact geographical area of the sales territory.

4542 (c) A brewer, importer of beer, or supplier of beer may have more than one agreement  
4543 described in this Subsection (6) if each brand of the brewer, importer, or supplier distributed in  
4544 the state is covered by one exclusive sales territory.

4545 (d) A brewer, importer of beer, or supplier of beer may not enter into an agreement  
4546 with more than one beer wholesaler licensee to distribute the same brand of beer in the same  
4547 sales territory or any portion of the sales territory.

4548 (7) A small brewer is not subject to the requirements of Subsection (6).

4549 Section 92. Section **32B-11-203 (Effective 07/01/11)** is amended to read:

4550 **32B-11-203 (Effective 07/01/11). Application requirements for a manufacturing**  
4551 **license.**

4552 To obtain an alcoholic product manufacturing license, a person shall submit to the  
4553 department:

- 4554 (1) a written application in a form prescribed by the department;
- 4555 (2) a nonrefundable application fee of [~~\$250~~] \$300;
- 4556 (3) an initial license fee of [~~\$3,250~~] \$3,800:
- 4557 (a) unless otherwise provided in this chapter; and
- 4558 (b) that is refundable if a license is not issued;
- 4559 (4) written consent of the local authority;
- 4560 (5) a statement of the purpose for which the person has applied for the manufacturing
- 4561 license;
- 4562 (6) evidence that the person is authorized by the United States to manufacture an
- 4563 alcoholic product;
- 4564 (7) a bond as specified by Section 32B-11-207;
- 4565 (8) evidence that the person is carrying public liability insurance in an amount and
- 4566 form satisfactory to the department;
- 4567 (9) a signed consent form stating that the manufacturing licensee will permit any
- 4568 authorized representative of the commission, department, or any law enforcement officer to
- 4569 have unrestricted right to enter the licensed premises;
- 4570 (10) if the person is an entity, proper verification evidencing that a person who signs
- 4571 the application is authorized to sign on behalf of the entity; and
- 4572 (11) any other information the commission or department may require.

4573 Section 93. Section **32B-11-204 (Effective 07/01/11)** is amended to read:

4574 **32B-11-204 (Effective 07/01/11). Renewal requirements for a manufacturing**  
4575 **license.**

- 4576 (1) A manufacturing license expires on December 31 of each year.
- 4577 (2) To renew a manufacturing license, a person shall submit by no later than November
- 4578 30 of the year the license expires:
  - 4579 (a) a completed renewal application to the department, in a form prescribed by the
  - 4580 department; and
  - 4581 (b) a renewal fee in the following amount of:
    - 4582 (i) [~~\$2,500~~] \$2,900, except for a wine manufacturing license described in Subsection
    - 4583 (2)(b)(ii); or
    - 4584 (ii) [~~\$1,200~~] \$1,400 for a winery manufacturing license if the winery manufacturing

4585 licensee produces less than 20,000 gallons of wine in the calendar year preceding the year in  
4586 which the manufacturing licensee seeks renewal.

4587 (3) Failure to meet the renewal requirements results in an automatic forfeiture of a  
4588 manufacturing license effective on the date the existing manufacturing license expires.

4589 Section 94. Section **32B-11-503 (Effective 07/01/11)** is amended to read:

4590 **32B-11-503 (Effective 07/01/11). Specific authority and operational requirements**  
4591 **for brewery manufacturing license.**

4592 (1) A brewery manufacturing license allows a brewery manufacturing licensee to:

4593 (a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt  
4594 beverages;

4595 (b) sell heavy beer and a flavored malt beverage to:

4596 (i) the department;

4597 (ii) a military installation; or

4598 (iii) an out-of-state customer;

4599 (c) sell beer to a beer wholesaler licensee;

4600 (d) in the case of a small brewer, in accordance with Subsection (5), sell beer

4601 manufactured by the small brewer to:

4602 (i) a retail licensee;

4603 (ii) an off-premise beer retailer; or

4604 (iii) an event permittee; and

4605 (e) warehouse on its premises an alcoholic product that the brewery manufacturing  
4606 licensee manufactures or purchases for manufacturing purposes.

4607 (2) A brewery manufacturing licensee may not sell the following to a person within the  
4608 state except the department or a military installation:

4609 (a) heavy beer; or

4610 (b) a flavored malt beverage.

4611 (3) If considered necessary, the commission or department may require:

4612 (a) the alteration of the plant, equipment, or licensed premises;

4613 (b) the alteration or removal of any unsuitable alcoholic product-making equipment or  
4614 material;

4615 (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise

4616 improve the sanitary and working conditions of the plant, licensed premises, and equipment; or  
4617 (d) that a record pertaining to the materials and ingredients used in the manufacture of  
4618 an alcoholic product be available to the commission or department upon request.

4619 (4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored  
4620 malt beverage to be consumed on the licensed premises, except under the circumstances  
4621 described in this Subsection (4).

4622 (a) A brewery manufacturing licensee may allow its off-duty staff to consume beer,  
4623 heavy beer, or a flavored malt beverage on its premises without charge.

4624 (b) A brewery manufacturing licensee may allow a person who can lawfully purchase  
4625 the following for wholesale or retail distribution to consume a bona fide sample of the brewery  
4626 manufacturing licensee's product on the licensed premises:

- 4627 (i) beer;
- 4628 (ii) heavy beer; or
- 4629 (iii) a flavored malt beverage.

4630 (c) (i) A brewery manufacturing licensee may operate on its licensed premises a retail  
4631 facility allowing consumption on premises of beer in a bottle or on draft if food is also  
4632 available.

4633 (ii) A retail facility located on the licensed premises of a brewery manufacturing  
4634 licensee shall be operated or supervised by the brewery manufacturing licensee.

4635 (iii) In operating a retail facility under this Subsection (4)(c), a brewery manufacturing  
4636 licensee shall comply with the requirements of Chapter 7, Part 2, Off-premise Beer Retailer  
4637 Local Authority.

4638 (5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility  
4639 located in this state for the storage of beer to be sold to a person described in Subsection (1)(d)  
4640 if the small brewer:

- 4641 (i) (A) (I) is located in this state; and
- 4642 (II) holds a brewery manufacturing license; or
- 4643 (B) (I) is located outside this state; and
- 4644 (II) holds a certificate of approval to sell beer in this state; and
- 4645 (ii) sells beer manufactured by the small brewer directly to a person described in  
4646 Subsection (1)(d).

4647 (b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless  
4648 the beer:

4649 (i) is manufactured by the small brewer; and

4650 (ii) is first placed in the small brewer's warehouse facility in this state.

4651 (c) (i) A small brewer warehouse shall make and maintain complete beer importation,  
4652 inventory, tax, distribution, sales records, and other records as the department and State Tax  
4653 Commission may require.

4654 (ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

4655 (A) the department; and

4656 (B) the State Tax Commission.

4657 (iii) Section 32B-1-205 applies to a record required to be made or maintained in  
4658 accordance with this Subsection (5), except that the provision is considered to include an action  
4659 described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission,  
4660 or an official or employee of the State Tax Commission.

4661 (6) Subject to Subsection (7):

4662 (a) A brewery manufacturing licensee may not sell beer in this state except under a  
4663 written agreement with a beer wholesaler licensee in this state.

4664 (b) An agreement described in Subsection (6)(a) shall:

4665 (i) create a restricted exclusive sales territory that is mutually agreed upon by the  
4666 persons entering into the agreement;

4667 (ii) designate the one or more brands that may be distributed in the sales territory; and

4668 (iii) set forth the exact geographical area of the sales territory.

4669 (c) A brewery manufacturing licensee may have more than one agreement described in  
4670 this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one  
4671 exclusive sales territory.

4672 (d) A brewery manufacturing licensee may not enter into an agreement with more than  
4673 one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or  
4674 any portion of the sales territory.

4675 (7) A small brewer is not subject to the requirements of Subsection (6).

4676 Section 95. Section **32B-11-604 (Effective 07/01/11)** is amended to read:

4677 **32B-11-604 (Effective 07/01/11). Application for local industry representative**

4678 **license.**

4679 (1) To obtain a local industry representative license, a person shall submit to the  
4680 department:

4681 (a) a written application in a form prescribed by the department;

4682 (b) a nonrefundable [~~\$50~~] \$75 application fee;

4683 (c) an initial license fee of [~~\$100~~] \$125, which is refundable if a local industry  
4684 representative license is not issued;

4685 (d) verification that the person is:

4686 (i) a resident of Utah;

4687 (ii) a Utah partnership;

4688 (iii) a Utah corporation; or

4689 (iv) a Utah limited liability company;

4690 (e) an affidavit stating the name and address of any manufacturer, supplier, or importer  
4691 the person will represent;

4692 (f) a signed consent form stating that the local industry representative will permit any  
4693 authorized representative of the commission, department, or any law enforcement officer to  
4694 have an unrestricted right to enter, during normal business hours, the specific premises where  
4695 the local industry representative conducts business;

4696 (g) if the person is an entity, proper verification evidencing that a person who signs the  
4697 application is authorized to sign on behalf of the entity; and

4698 (h) any other information the commission or department may require.

4699 (2) A local industry representative licensee is not required to pay an additional license  
4700 fee to represent more than one manufacturer, supplier, or importer.

4701 Section 96. Section **32B-11-605 (Effective 07/01/11)** is amended to read:

4702 **32B-11-605 (Effective 07/01/11). Renewal requirements for local industry**  
4703 **representative license.**

4704 (1) A local industry representative license expires on December 31 of each year.

4705 (2) To renew a local industry representative license, a person shall submit to the  
4706 department by no later than November 30 of the year the license expires:

4707 (a) a completed renewal application in a form prescribed by the department;

4708 (b) a renewal fee of [~~\$100~~] \$125; and



4709 (c) an affidavit stating the name and address of any manufacturer, supplier, or importer  
4710 the local industry representative licensee represents at the time of submitting the renewal  
4711 application.

4712 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the  
4713 local industry representative license effective on the date the existing local industry  
4714 representative license expires.

4715 Section 97. Section **32B-11-608 (Effective 07/01/11)** is amended to read:

4716 **32B-11-608 (Effective 07/01/11). Operational requirements for local industry**  
4717 **representative license.**

4718 (1) (a) A local industry representative licensee, staff of the local industry representative  
4719 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the  
4720 state, shall comply with this title and rules of the commission.

4721 (b) If a person knowingly violates Subsection (1)(a):

4722 (i) the violation may result in disciplinary action in accordance with Chapter 3,  
4723 Disciplinary Actions and Enforcement Act, against:

4724 (A) a local industry representative licensee;

4725 (B) individual staff of a local industry representative licensee; or

4726 (C) both a local industry representative licensee and staff of the local industry  
4727 representative licensee; and

4728 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:

4729 (A) the removal of the manufacturer's, supplier's, or importer's products from the  
4730 department's sales list; and

4731 (B) a suspension of the department's purchase of those products for a period  
4732 determined by the commission.

4733 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:

4734 (i) directly commits the violation; or

4735 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage  
4736 in the violation.

4737 (2) A local industry representative licensee shall display its license in the local industry  
4738 representative licensee's principal place of business.

4739 (3) (a) A local industry representative licensee shall maintain on file with the

4740 department a current accounts list of the names and addresses of the manufacturers, suppliers,  
4741 and importers the local industry representative licensee represents.

4742 (b) A local industry representative licensee shall notify the department in writing of a  
4743 change to its accounts list within 14 days from the date the local industry representative  
4744 licensee:

4745 (i) acquires the account of a manufacturer, supplier, or importer; or

4746 (ii) loses the account of a manufacturer, supplier, or importer.

4747 (4) (a) A local industry representative licensee shall make and maintain the records the  
4748 department requires for at least three years.

4749 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
4750 accordance with this Subsection (4).

4751 (5) Staff of a local industry representative licensee may not be:

4752 (a) a retail licensee that sells, offers for sale, or furnishes liquor;

4753 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or

4754 (c) a minor.

4755 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,  
4756 give, or attempt in any way to dispose of the license to another person, whether for monetary  
4757 gain or not.

4758 (b) A local industry representative license has no monetary value for any type of  
4759 disposition.

4760 (7) A local industry representative licensee, staff of the local industry representative  
4761 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the  
4762 state:

4763 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,  
4764 may:

4765 (i) assist the department in:

4766 (A) ordering, shipping, and delivering merchandise;

4767 (B) providing new product notification;

4768 (C) obtaining listing and delisting information;

4769 (D) receiving price quotations;

4770 (E) providing product sales analysis;

- 4771 (F) conducting shelf management; and  
4772 (G) conducting educational seminars; and  
4773 (ii) to acquire new listings:  
4774 (A) solicit orders from the department; and  
4775 (B) submit to the department price lists and samples of the products of the  
4776 manufacturer, supplier, or importer;  
4777 (b) may not sell liquor within the state except to:  
4778 (i) the department; and  
4779 (ii) a military installation;  
4780 (c) may not ship or transport, or cause to be shipped or transported, liquor into this  
4781 state or from one place to another within this state;  
4782 (d) may not sell or furnish any liquor to any person within this state other than to:  
4783 (i) the department; or  
4784 (ii) a military installation;  
4785 (e) except as otherwise provided, may not advertise a product the local industry  
4786 representative licensee represents in violation of this title or any other federal or state law;  
4787 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices  
4788 Act; and  
4789 (g) may only provide a sample of a product of the manufacturer, supplier, or importer  
4790 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.  
4791 (8) A local industry representative licensee may, to become educated as to the quality  
4792 and characteristics of a liquor that the licensee represents, taste and analyze an industry  
4793 representative sample under the conditions listed in this Subsection (8).  
4794 (a) A local industry representative licensee may not receive more than two industry  
4795 representative samples of a particular type, vintage, and production lot of a particular branded  
4796 product within a consecutive 120-day period.  
4797 (b) (i) An industry representative sample of liquor may not exceed one liter.  
4798 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the  
4799 following may not exceed 1.5 liters unless that exact product is only commercially packaged in  
4800 a larger size, not to exceed 5 liters:  
4801 (A) wine;

- 4802 (B) heavy beer; or
- 4803 (C) a flavored malt beverage.
- 4804 (c) An industry representative sample may only be of a product not presently listed on
- 4805 the department's sales list.
- 4806 (d) (i) An industry representative sample shall be shipped:
- 4807 (A) prepaid by the manufacturer, supplier, or importer;
- 4808 (B) by common carrier and not via United States mail; and
- 4809 (C) directly to the department's central administrative warehouse office.
- 4810 (ii) An industry representative sample may not be shipped to any other location within
- 4811 the state.
- 4812 (e) An industry representative sample shall be accompanied by a letter from the
- 4813 manufacturer, supplier, or importer:
- 4814 (i) clearly identifying the product as an "industry representative sample"; and
- 4815 (ii) clearly stating:
- 4816 (A) the FOB case price of the product; and
- 4817 (B) the name of the local industry representative for whom it is intended.
- 4818 (f) The department shall assess a reasonable handling, labeling, and storage fee for
- 4819 each industry representative sample received.
- 4820 (g) The department shall affix to a [~~package~~] container a label clearly identifying the
- 4821 product as an "industry representative sample."
- 4822 (h) The department shall:
- 4823 (i) account for and record each industry representative sample received;
- 4824 (ii) account for the industry representative sample's disposition; and
- 4825 (iii) maintain a record of the industry representative sample and its disposition for a
- 4826 two-year period.
- 4827 (i) An industry representative sample may not leave the premises of the department's
- 4828 central administrative warehouse office.
- 4829 (j) A local industry representative licensee's and a local industry representative
- 4830 licensee's staff may, at regularly scheduled days and times established by the department, taste
- 4831 and analyze one or more industry representative samples on the premises of the department's
- 4832 central administrative warehouse office.

4833 (k) The department shall destroy the unused contents of an opened product remaining  
4834 after a product is sampled under controlled and audited conditions established by the  
4835 department.

4836 (l) An industry representative sample that is not tasted within 30 days of receipt by the  
4837 department shall be disposed of at the discretion of the department in one of the following  
4838 ways:

4839 (i) the contents destroyed under controlled and audited conditions established by the  
4840 department; or

4841 (ii) added to the inventory of the department for sale to the public.

4842 Section 98. Section **32B-12-202 (Effective 07/01/11)** is amended to read:

4843 **32B-12-202 (Effective 07/01/11). Application requirements for liquor**  
4844 **warehousing license.**

4845 To obtain a liquor warehousing license, a person shall submit to the department:

4846 (1) a written application in a form prescribed by the department;

4847 (2) a nonrefundable [~~\$250~~] \$300 application fee;

4848 (3) an initial license fee of [~~\$750~~] \$850, which is refundable if a liquor warehousing  
4849 license is not issued;

4850 (4) written consent of the local authority;

4851 (5) a copy of the person's current business license;

4852 (6) a bond as specified by Section 32B-12-206;

4853 (7) a floor plan of the person's warehouse, including the area in which the person  
4854 proposes that liquor be stored;

4855 (8) evidence that the person is carrying public liability insurance in an amount and  
4856 form satisfactory to the department;

4857 (9) a signed consent form stating that the liquor warehousing licensee will permit any  
4858 authorized representative of the commission, department, or any law enforcement officer to  
4859 have unrestricted right to enter the licensed premises;

4860 (10) if the person is an entity, proper verification evidencing that a person who signs  
4861 the application is authorized to sign on behalf of the entity; and

4862 (11) any other information the commission or department may require.

4863 Section 99. Section **32B-12-203 (Effective 07/01/11)** is amended to read:

4864           **32B-12-203 (Effective 07/01/11). Renewal requirements for liquor warehousing**  
4865 **license.**

- 4866           (1) A liquor warehousing license expires on December 31 of each year.
- 4867           (2) To renew a liquor warehousing license, a person shall submit to the department by  
4868 no later than November 30 of the year the license expires:
- 4869           (a) a completed renewal application in a form prescribed by the department; and  
4870           (b) a renewal fee of [~~\$1,000~~] \$1,200.
- 4871           (3) Failure to meet the renewal requirements results in an automatic forfeiture of the  
4872 liquor warehousing license effective on the date the existing liquor warehousing license  
4873 expires.

4874           Section 100. Section **32B-13-202 (Effective 07/01/11)** is amended to read:

4875           **32B-13-202 (Effective 07/01/11). Application requirements for beer wholesaling**  
4876 **license.**

4877           To obtain a beer wholesaling license, a person shall submit to the department:

- 4878           (1) a written application in a form prescribed by the department;
- 4879           (2) a nonrefundable [~~\$250~~] \$300 application fee;
- 4880           (3) an initial license fee of [~~\$2,000~~] \$2,300 that is refundable if a beer wholesaling  
4881 license is not issued;
- 4882           (4) written consent of the local authority;
- 4883           (5) a copy of the person's current business license;
- 4884           (6) a bond as specified in Section 32B-13-206;
- 4885           (7) a statement of the brands of beer the person is authorized to sell and distribute;
- 4886           (8) a statement of the [~~geographical areas~~] one or more sales territories in which the  
4887 person is authorized [~~by the beer manufacturer~~] to sell and distribute beer under an agreement  
4888 required by Subsection 32B-13-202(6);
- 4889           (9) evidence that the person is carrying public liability insurance in an amount and  
4890 form satisfactory to the department;
- 4891           (10) a signed consent form stating that the beer wholesaling licensee will permit any  
4892 authorized representative of the commission, department, or any law enforcement officer to  
4893 have unrestricted right to enter the licensed premises;
- 4894           (11) if the person is an entity, proper verification evidencing that a person who signs

4895 the application is authorized to sign on behalf of the entity; and

4896 (12) any other information that the commission or department may require.

4897 Section 101. Section **32B-13-203 (Effective 07/01/11)** is amended to read:

4898 **32B-13-203 (Effective 07/01/11). Renewal requirements for beer wholesaling**

4899 **license.**

4900 (1) A beer wholesaling license expires on December 31 of each year.

4901 (2) To renew a beer wholesaling license, a person shall submit to the department by no  
4902 later than November 30 of the year the license expires:

4903 (a) a completed renewal application in a form prescribed by the department; and

4904 (b) a renewal fee in the following amount:

| 4905 Case Sales in Previous License Year for the Licensee          | Renewal Fee                          |
|--|--------------------------------------|
| 4906 under 500,000 cases   | <del>[\$1,000]</del> <u>\$1,200</u>  |
| 4907 equals or exceeds 500,000 cases but less than 1,000,000 cases | <del>[\$2,000]</del> <u>\$2,350</u>  |
| 4908 equals or exceeds 1,000,000 cases                             | <del>[\$3,000]</del> <u>\$3,500.</u> |

4909 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the  
4910 beer wholesaling license effective on the date the existing beer wholesaling license expires.

4911 Section 102. Section **32B-13-301 (Effective 07/01/11)** is amended to read:

4912 **32B-13-301 (Effective 07/01/11). General operational requirements for beer**

4913 **wholesaling license.**

4914 (1) (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall  
4915 comply with this title and the rules of the commission.

4916 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
4917 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

4918 (i) a beer wholesaler licensee;

4919 (ii) individual staff of a beer wholesaler licensee; or

4920 (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.

4921 (2) (a) A beer wholesaler licensee shall make and maintain the records required by the  
4922 department.

4923 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
4924 accordance with this Subsection (2).

4925 (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.

4926 (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or  
4927 attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary  
4928 gain or not, unless it is done:

- 4929 (a) in accordance with the commission rules; and
- 4930 (b) after written consent is given by the commission.

4931 (5) A beer wholesaler licensee may not wholesale a beer manufactured within the state  
4932 by a brewer who is not licensed by the commission as a brewery manufacturing licensee.

4933 (6) A beer wholesaler licensee may not wholesale a beer manufactured out of state by a  
4934 brewer who has not obtained a certificate of approval from the department.

4935 (7) (a) A beer wholesaler licensee may not sell or distribute beer to a person within the  
4936 state except to:

- 4937 (i) a retail licensee;
- 4938 (ii) an off-premise beer retailer; or
- 4939 (iii) an event permittee.

4940 (b) A violation of this Subsection (7) is a class A misdemeanor.

4941 (8) (a) A beer wholesaler licensee may not sell or distribute a beer to a person who sells  
4942 the beer at retail outside of [~~the geographic area~~] a sales territory designated on its application  
4943 and authorized by an agreement required by Subsection 32B-13-202, except that if a beer  
4944 wholesaler licensee is temporarily unable to supply a person within the beer wholesaler  
4945 licensee's authorized [~~geographical area~~] sales territory, the department may grant temporary  
4946 authority to another beer wholesaler licensee who distributes the same brand in another [~~area~~]  
4947 sales territory to supply:

- 4948 (i) a retail licensee; or
- 4949 (ii) an off-premise beer retailer.

4950 (b) A violation of this Subsection (8) is a class B misdemeanor.

4951 (9) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a  
4952 warehouse facility located in this state for the receipt, storage, and further distribution of beer  
4953 sold by the beer wholesaler licensee to a person within the state.

4954 (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the  
4955 department, unless the beer is first:

- 4956 (i) physically removed from the vehicle used to transport the beer from the supplier to



4957 the beer wholesaler licensee; and

4958 (ii) delivered into the actual possession and control of the beer wholesaler licensee in  
4959 its warehouse or other facility.

4960 (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has  
4961 not had its label and packaging approved by the department in accordance with Chapter 1, Part  
4962 6, Malted Beverage Act.

4963 (11) The commission may prescribe by policy or rule, consistent with this title, the  
4964 general operational requirements of a beer wholesaling licensee relating to:

4965 (a) physical facilities; and

4966 (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution,  
4967 or transportation of beer within the state.

4968 Section 103. Section **52-4-205** is amended to read:

4969 **52-4-205. Purposes of closed meetings.**

4970 (1) A closed meeting described under Section 52-4-204 may only be held for:

4971 (a) discussion of the character, professional competence, or physical or mental health  
4972 of an individual;

4973 (b) strategy sessions to discuss collective bargaining;

4974 (c) strategy sessions to discuss pending or reasonably imminent litigation;

4975 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,  
4976 including any form of a water right or water shares, if public discussion of the transaction  
4977 would:

4978 (i) disclose the appraisal or estimated value of the property under consideration; or

4979 (ii) prevent the public body from completing the transaction on the best possible terms;

4980 (e) strategy sessions to discuss the sale of real property, including any form of a water  
4981 right or water shares, if:

4982 (i) public discussion of the transaction would:

4983 (A) disclose the appraisal or estimated value of the property under consideration; or

4984 (B) prevent the public body from completing the transaction on the best possible terms;

4985 (ii) the public body previously gave public notice that the property would be offered for  
4986 sale; and

4987 (iii) the terms of the sale are publicly disclosed before the public body approves the

4988 sale;

4989 (f) discussion regarding deployment of security personnel, devices, or systems;

4990 (g) investigative proceedings regarding allegations of criminal misconduct;

4991 (h) as relates to the Independent Legislative Ethics Commission, conducting business

4992 relating to the receipt or review of ethics complaints;

4993 (i) as relates to an ethics committee of the Legislature, a purpose permitted under

4994 Subsection 52-4-204(1)(a)(iii)(B);

4995 (j) as relates to a county legislative body, discussing commercial information as

4996 defined in Section 59-1-404; [or]

4997 (k) as relates to the Alcoholic Beverage Control Commission issuing a retail license

4998 under Title 32B, Alcoholic Beverage Control Act, after receiving public input in a public

4999 meeting in support or opposition to the commission issuing the retail license, discussing one or

5000 more of the following factors in a closed meeting:

5001 (i) a factor the commission is required to consider under Section 32B-5-203 or that is

5002 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail

5003 license at issue;

5004 (ii) the availability of a retail license under a quota;

5005 (iii) the length of time the applicant has waited for a retail license;

5006 (iv) an opening date for the applicant;

5007 (v) whether the applicant is a seasonal business;

5008 (vi) whether the location of the applicant has been previously licensed or is a new

5009 location;

5010 (vii) whether the application involves a change of ownership of an existing location;

5011 (viii) whether the applicant holds other alcohol licenses at any location;

5012 (ix) whether the applicant has a violation history or a pending violation;

5013 (x) projected alcohol sales for the applicant as it relates to the extent to which the retail

5014 license will be used;

5015 (xi) whether the applicant is a small or entrepreneurial business that would benefit the

5016 community in which it would be located;

5017 (xii) the nature of entertainment the applicant proposes; or

5018 (xiii) public input in support or opposition to granting the retail license; or

5019            [~~(k)~~] (l) a purpose for which a meeting is required to be closed under Subsection (2).

5020            (2) The following meetings shall be closed:

5021            (a) a meeting of the Health and Human Services Interim Committee to review a fatality

5022 review report described in Subsection 62A-16-301(1)(a), and the responses to the report

5023 described in Subsections 62A-16-301(2) and (4); and

5024            (b) a meeting of the Child Welfare Legislative Oversight Panel to:

5025            (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the

5026 responses to the report described in Subsections 62A-16-301(2) and (4); or

5027            (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5).

5028            (3) A public body may not interview a person applying to fill an elected position in a

5029 closed meeting.

5030            Section 104. Section **62A-15-401 (Effective 07/01/11)** is amended to read:

5031            **62A-15-401 (Effective 07/01/11). Alcohol training and education seminar.**

5032            (1) As used in this part:

5033            (a) "Instructor" means a person that directly provides the instruction during an alcohol

5034 training and education seminar for a seminar provider.

5035            (b) "Licensee" means a person who is:

5036            (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

5037 and

5038            (B) engaged in the retail sale of an alcoholic product for consumption on the premises

5039 of the licensee; or

5040            (ii) a business that is:

5041            (A) a new or renewing licensee licensed by a city, town, or county; and

5042            (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

5043            (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

5044            (d) "Seminar provider" means a person other than the division who provides an alcohol

5045 training and education seminar meeting the requirements of this section.

5046            (2) (a) This section applies to an individual who, as defined by the board by rule:

5047            (i) manages operations at the premises of a licensee engaged in the retail sale of an

5048 alcoholic product for consumption on the premises of the licensee;

5049            (ii) supervises the serving of an alcoholic product to a customer for consumption on the

5050 premises of a licensee;

5051 (iii) serves an alcoholic product to a customer for consumption on the premises of a  
5052 licensee;

5053 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
5054 of an off-premise beer retailer; or

5055 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
5056 retailer.

5057 (b) If the individual does not have a valid record that the individual has completed an  
5058 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

5059 (i) (A) complete an alcohol training and education seminar within 30 days of the  
5060 following if the individual is described in Subsections (2)(a)(i) through (iii):

5061 (I) if the individual is an employee, the day the individual begins employment;

5062 (II) if the individual is an independent contractor, the day the individual is first hired;

5063 or

5064 (III) if the individual holds an ownership interest in the licensee, the day that the  
5065 individual first engages in an activity that would result in that individual being required to  
5066 complete an alcohol training and education seminar; or

5067 (B) complete an alcohol training and education seminar within the time periods  
5068 specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv)  
5069 and (v); and

5070 (ii) pay a fee:

5071 (A) to the seminar provider; and

5072 (B) that is equal to or greater than the amount established under Subsection (4)(h).

5073 (c) An individual shall have a valid record that the individual completed an alcohol  
5074 training and education seminar within the time period provided in this Subsection (2) to engage  
5075 in an activity described in Subsection (2)(a).

5076 (d) A record that an individual has completed an alcohol training and education  
5077 seminar is valid for:

5078 (i) three years from the day on which the record is issued for an individual described in  
5079 Subsection (2)(a)(i), (ii), or (iii); and

5080 (ii) five years from the day on which the record is issued for an individual described in

5081 Subsection (2)(a)(iv) or (v).

5082 (e) On and after July 1, 2011, to be considered as having completed an alcohol training  
5083 and education seminar an individual shall attend the alcohol training and education seminar in  
5084 the physical presence of an instructor of the seminar provider.

5085 (3) (a) A licensee may not permit an individual who is not in compliance with  
5086 Subsection (2) to:

5087 (i) serve or supervise the serving of an alcoholic product to a customer for  
5088 consumption on the premises of the licensee;

5089 (ii) engage in any activity that would constitute managing operations at the premises of  
5090 a licensee that engages in the retail sale of an alcoholic product for consumption on the  
5091 premises of the licensee;

5092 (iii) directly supervise the sale of beer to a customer for consumption off the premises  
5093 of an off-premise beer retailer; or

5094 (iv) sell beer to a customer for consumption off the premises of an off-premise beer  
5095 retailer.

5096 (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.

5097 (4) The division shall:

5098 (a) (i) provide alcohol training and education seminars; or

5099 (ii) certify one or more seminar providers;

5100 (b) establish the curriculum for an alcohol training and education seminar that includes  
5101 the following subjects:

5102 (i) (A) alcohol as a drug; and

5103 (B) alcohol's effect on the body and behavior;

5104 (ii) recognizing the problem drinker or signs of intoxication;

5105 (iii) an overview of state alcohol laws related to responsible beverage sale or service,  
5106 as determined in consultation with the Department of Alcoholic Beverage Control;

5107 (iv) dealing with the problem customer, including ways to terminate sale or service;  
5108 and

5109 (v) for those supervising or engaging in the retail sale of an alcoholic product for  
5110 consumption on the premises of a licensee, alternative means of transportation to get the  
5111 customer safely home;

- 5112 (c) recertify each seminar provider every three years;
- 5113 (d) monitor compliance with the curriculum described in Subsection (4)(b);
- 5114 (e) maintain for at least five years a record of every person who has completed an
- 5115 alcohol training and education seminar;
- 5116 (f) provide the information described in Subsection (4)(e) on request to:
- 5117 (i) the Department of Alcoholic Beverage Control;
- 5118 (ii) law enforcement; or
- 5119 (iii) a person licensed by the state or a local government to sell an alcoholic product;
- 5120 (g) provide the Department of Alcoholic Beverage Control on request a list of any
- 5121 seminar provider certified by the division; and
- 5122 (h) establish a fee amount for each person attending an alcohol training and education
- 5123 seminar that is sufficient to offset the division's cost of administering this section.
- 5124 (5) The board shall by rule made in accordance with Title 63G, Chapter 3, Utah
- 5125 Administrative Rulemaking Act:
- 5126 (a) define what constitutes under this section an individual who:
- 5127 (i) manages operations at the premises of a licensee engaged in the retail sale of an
- 5128 alcoholic product for consumption on the premises of the licensee;
- 5129 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
- 5130 premises of a licensee;
- 5131 (iii) serves an alcoholic product to a customer for consumption on the premises of a
- 5132 licensee;
- 5133 (iv) directly supervises the sale of beer to a customer for consumption off the premises
- 5134 of an off-premise beer retailer; or
- 5135 (v) sells beer to a customer for consumption off the premises of an off-premise beer
- 5136 retailer;
- 5137 (b) establish criteria for certifying and recertifying a seminar provider; and
- 5138 (c) establish guidelines for the manner in which an instructor provides an alcohol
- 5139 education and training seminar.
- 5140 (6) A seminar provider shall:
- 5141 (a) obtain recertification by the division every three years;
- 5142 (b) ensure that an instructor used by the seminar provider:

- 5143 (i) follows the curriculum established under this section; and  
5144 (ii) conducts an alcohol training and education seminar in accordance with the  
5145 guidelines established by rule;
- 5146 (c) ensure that any information provided by the seminar provider or instructor of a  
5147 seminar provider is consistent with:
- 5148 (i) the curriculum established under this section; and  
5149 (ii) this section;
- 5150 (d) provide the division with the names of all persons who complete an alcohol training  
5151 and education seminar provided by the seminar provider;
- 5152 (e) (i) collect a fee for each person attending an alcohol training and education seminar  
5153 in accordance with Subsection (2); and  
5154 (ii) forward to the division the portion of the fee that is equal to the amount described  
5155 in Subsection (4)(h); and
- 5156 (f) issue a record to an individual that completes an alcohol training and education  
5157 seminar provided by the seminar provider.
- 5158 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,  
5159 Administrative Procedures Act, the division finds that a seminar provider violates this section  
5160 or that an instructor of the seminar provider violates this section, the division may:
- 5161 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;  
5162 (ii) revoke the certification of the seminar provider;  
5163 (iii) require the seminar provider to take corrective action regarding an instructor; or  
5164 (iv) prohibit the seminar provider from using an instructor until such time that the  
5165 seminar provider establishes to the satisfaction of the division that the instructor is in  
5166 compliance with Subsection (6)(b).
- 5167 (b) The division may certify a seminar provider whose certification is revoked:  
5168 (i) no sooner than 90 days from the date the certification is revoked; and  
5169 (ii) if the seminar provider establishes to the satisfaction of the division that the  
5170 seminar provider will comply with this section.
- 5171 Section 105. Section **63J-1-201** is amended to read:
- 5172 **63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation --**  
5173 **Appropriations based on current tax laws and not to exceed estimated revenues.**

5174 (1) The governor shall deliver, not later than 30 days before the date the Legislature  
5175 convenes in the annual general session, a confidential draft copy of the governor's proposed  
5176 budget recommendations to the Office of the Legislative Fiscal Analyst.

5177 (2) (a) The governor shall, within the first three days of the annual general session of  
5178 the Legislature, submit to the presiding officer of each house of the Legislature:

5179 (i) a proposed budget for the ensuing fiscal year;

5180 (ii) a schedule for all of the proposed appropriations of the budget, with each  
5181 appropriation clearly itemized and classified;

5182 (iii) the statement described in Subsection (2)(c); and

5183 (iv) as applicable, a document showing proposed expenditures and estimated revenues  
5184 that are based on changes in state tax laws or rates.

5185 (b) The proposed budget shall include:

5186 (i) a projection of estimated revenues and expenditures for the next fiscal year;

5187 (ii) the source of all direct, indirect, and in-kind matching funds for all federal grants or  
5188 assistance programs included in the budget;

5189 (iii) a complete plan of proposed expenditures and estimated revenues for the next  
5190 fiscal year that is based upon the current fiscal year state tax laws and rates;

5191 (iv) an itemized estimate of the proposed appropriations for:

5192 (A) the Legislative Department as certified to the governor by the president of the  
5193 Senate and the speaker of the House;

5194 (B) the Executive Department;

5195 (C) the Judicial Department as certified to the governor by the state court  
5196 administrator;

5197 (D) payment and discharge of the principal and interest of the indebtedness of the state;

5198 (E) the salaries payable by the state under the Utah Constitution or under law for the  
5199 lease agreements planned for the next fiscal year;

5200 (F) other purposes that are set forth in the Utah Constitution or under law; and

5201 (G) all other appropriations;

5202 (v) for each line item, the average annual dollar amount of staff funding associated  
5203 with all positions that were vacant during the last fiscal year; and

5204 (vi) deficits or anticipated deficits.



- 5205 (c) The budget shall be accompanied by a statement showing:
- 5206 (i) the revenues and expenditures for the last fiscal year;
- 5207 (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts and
- 5208 funds of the state;
- 5209 (iii) an estimate of the state's financial condition as of the beginning and the end of the
- 5210 period covered by the budget;
- 5211 (iv) a complete analysis of lease with an option to purchase arrangements entered into
- 5212 by state agencies;
- 5213 (v) the recommendations for each state agency for new full-time employees for the
- 5214 next fiscal year, which shall also be provided to the State Building Board as required by
- 5215 Subsection 63A-5-103(2);
- 5216 (vi) any explanation that the governor may desire to make as to the important features
- 5217 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
- 5218 the state's revenue; and
- 5219 (vii) information detailing certain fee increases as required by Section 63J-1-504.
- 5220 (3) (a) (i) For the purpose of preparing and reporting the proposed budget, the governor
- 5221 shall require the proper state officials, including all public and higher education officials, all
- 5222 heads of executive and administrative departments and state institutions, bureaus, boards,
- 5223 commissions, and agencies expending or supervising the expenditure of the state money, and
- 5224 all institutions applying for state money and appropriations, to provide itemized estimates of
- 5225 revenues and expenditures.
- 5226 (ii) The governor may also require other information under these guidelines and at
- 5227 times as the governor may direct, which may include a requirement for program productivity
- 5228 and performance measures, where appropriate, with emphasis on outcome indicators.
- 5229 (b) The governor may require representatives of public and higher education, state
- 5230 departments and institutions, and other institutions or individuals applying for state
- 5231 appropriations to attend budget meetings.
- 5232 (c) (i) (A) In submitting the budgets for the Departments of Health and Human
- 5233 Services and the Office of the Attorney General, the governor shall consider a separate
- 5234 recommendation in the governor's budget for funds to be contracted to:
- 5235 (I) local mental health authorities under Section 62A-15-110;

5236 (II) local substance abuse authorities under Section 62A-15-110;  
5237 (III) area agencies under Section 62A-3-104.2;  
5238 (IV) programs administered directly by and for operation of the Divisions of Substance  
5239 Abuse and Mental Health and Aging and Adult Services;  
5240 (V) local health departments under Title 26A, Chapter 1, Local Health Departments;  
5241 and  
5242 (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.  
5243 (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (II),  
5244 and (III), the governor shall consider an amount sufficient to grant local health departments,  
5245 local mental health authorities, local substance abuse authorities, and area agencies the same  
5246 percentage increase for wages and benefits that the governor includes in the governor's budget  
5247 for persons employed by the state.  
5248 (C) If the governor does not include in the governor's budget an amount sufficient to  
5249 grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to  
5250 the Legislature regarding the governor's reason for not including that amount.  
5251 (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall  
5252 consider an amount sufficient to grant local conservation districts and Utah Association of  
5253 Conservation District employees the same percentage increase for wages and benefits that the  
5254 governor includes in the governor's budget for persons employed by the state.  
5255 (B) If the governor does not include in the governor's budget an amount sufficient to  
5256 grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message to  
5257 the Legislature regarding the governor's reason for not including that amount.  
5258 (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the  
5259 Division of Services for People with Disabilities, the Division of Child and Family Services,  
5260 and the Division of Juvenile Justice Services within the Department of Human Services, the  
5261 governor shall consider an amount sufficient to grant employees of corporations that provide  
5262 direct services under contract with those divisions, the same percentage increase for  
5263 cost-of-living that the governor includes in the governor's budget for persons employed by the  
5264 state.  
5265 (B) If the governor does not include in the governor's budget an amount sufficient to  
5266 grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message

5267 to the Legislature regarding the governor's reason for not including that amount.

5268 (iv) (A) The Families, Agencies, and Communities Together Council may propose a  
5269 budget recommendation to the governor for collaborative service delivery systems operated  
5270 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

5271 (B) The Legislature may, through a specific program schedule, designate funds  
5272 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

5273 (v) The governor shall include in the governor's budget the state's portion of the budget  
5274 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
5275 Communications Agency Network Act.

5276 (vi) (A) The governor shall include a separate recommendation in the governor's  
5277 budget for funds to maintain the operation and administration of the Utah Comprehensive  
5278 Health Insurance Pool.

5279 (B) In making the recommendation, the governor may consider:

5280 (I) actuarial analysis of growth or decline in enrollment projected over a period of at  
5281 least three years;

5282 (II) actuarial analysis of the medical and pharmacy claims costs projected over a period  
5283 of at least three years;

5284 (III) the annual Medical Care Consumer Price Index;

5285 (IV) the annual base budget for the pool established by the Commerce and Revenue  
5286 Appropriations Subcommittee for each fiscal year;

5287 (V) the growth or decline in insurance premium taxes and fees collected by the State  
5288 Tax Commission and the Insurance Department; and

5289 (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and  
5290 Subsection 59-14-204(5)(b).

5291 (vii) (A) In submitting the budget for the Department of Public Safety, the governor  
5292 shall include a separate recommendation in the governor's budget for maintaining a sufficient  
5293 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to  
5294 or below the number specified in Subsection 32B-1-201(2).

5295 (B) If the governor does not include in the governor's budget an amount sufficient to  
5296 maintain the number of alcohol-related law enforcement officers described in Subsection  
5297 (3)(c)(vii)(A), the governor shall include a message to the Legislature regarding the governor's

5298 reason for not including that amount.

5299 (d) (i) The governor may revise all estimates, except those relating to the Legislative  
5300 Department, the Judicial Department, and those providing for the payment of principal and  
5301 interest to the state debt and for the salaries and expenditures specified by the Utah  
5302 Constitution or under the laws of the state.

5303 (ii) The estimate for the Legislative Department, as certified by the presiding officers  
5304 of both houses, shall be included in the budget without revision by the governor.

5305 (iii) The estimate for the Judicial Department, as certified by the state court  
5306 administrator, shall also be included in the budget without revision, but the governor may make  
5307 separate recommendations on the estimate.

5308 (e) The total appropriations requested for expenditures authorized by the budget may  
5309 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing  
5310 fiscal year.

5311 (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (II), and (III) and  
5312 Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the  
5313 actuarial data and projections prepared for the board of the Utah Comprehensive Health  
5314 Insurance Pool as it develops its financial statements and projections for each fiscal year.

5315 (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider an  
5316 amount sufficient to grant local health departments, local mental health authorities, local  
5317 substance abuse authorities, area agencies on aging, conservation districts, and Utah  
5318 Association of Conservation District employees the same percentage increase for wages and  
5319 benefits that is included in the budget for persons employed by the state.

5320 (b) (i) In adopting a budget each year for the Utah Comprehensive Health Insurance  
5321 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each  
5322 fiscal year.

5323 (ii) When making a determination under Subsection (5)(b)(i), the Legislature shall  
5324 consider factors it determines are appropriate, which may include:

5325 (A) actuarial analysis of growth or decline in enrollment projected over a period of at  
5326 least three years;

5327 (B) actuarial analysis of the medical and pharmacy claims costs projected over a period  
5328 of at least three years;

- 5329 (C) the annual Medical Care Consumer Price Index;
- 5330 (D) the annual base budget for the pool established by the Commerce and Revenue
- 5331 Appropriations Subcommittee for each fiscal year;
- 5332 (E) the growth or decline in insurance premium taxes and fees collected by the tax
- 5333 commission and the insurance department from the previous fiscal year; and
- 5334 (F) the availability of surplus General Fund revenue under Section 63J-1-312 and
- 5335 Subsection 59-14-204(5)(b).
- 5336 (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive Health
- 5337 Insurance Pool as determined under Subsection (5)(b)(i):
- 5338 (A) shall be deposited into the fund established by Section 31A-29-120; and
- 5339 (B) are restricted and are to be used to maintain the operation, administration, and
- 5340 management of the Utah Comprehensive Health Insurance Pool created by Section
- 5341 31A-29-104.
- 5342 (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity
- 5343 does not affect the budget itself or any other item in it.
- 5344 Section 106. Section **63J-1-602.2** is amended to read:
- 5345 **63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.**
- 5346 (1) Appropriations from the Technology Development Restricted Account created in
- 5347 Section 31A-3-104.
- 5348 (2) Appropriations from the Criminal Background Check Restricted Account created in
- 5349 Section 31A-3-105.
- 5350 (3) Appropriations from the Captive Insurance Restricted Account created in Section
- 5351 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that
- 5352 section free revenue.
- 5353 (4) Appropriations from the Title Licensee Enforcement Restricted Account created in
- 5354 Section 31A-23a-415.
- 5355 (5) The fund for operating the state's Federal Health Care Tax Credit Program, as
- 5356 provided in Section 31A-38-104.
- 5357 (6) The Alcoholic Beverage Control Act Enforcement Fund created in Section
- 5358 32B-2-305.
- 5359 [~~6~~] (7) The Special Administrative Expense Account created in Section 35A-4-506.

5360            [~~7~~] (8) Funding for a new program or agency that is designated as nonlapsing under  
5361 Section 36-24-101.

5362            [~~8~~] (9) The Oil and Gas Conservation Account created in Section 40-6-14.5.

5363            [~~9~~] (10) The Off-Highway Access and Education Restricted Account created in  
5364 Section 41-22-19.5.

5365            Section 107. **Repealer.**

5366            This bill repeals:

5367            Section **26-7-6 (Effective 07/01/11), Alcohol retailers to post warnings related to**  
5368 **consumption of alcohol and pregnancy.**

5369            Section **32B-4-506 (Effective 07/01/11), Conflicting interests.**

5370            Section **32B-4-507 (Effective 07/01/11), Interfering with manufacturer, supplier, or**  
5371 **importer.**

5372            Section 108. **Effective date.**

5373            (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

5374            (2) (a) The repeal of Subsection 32B-6-603(4) in this bill takes effect on November 1,  
5375 2011.

5376            (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes  
5377 effect on November 1, 2011.

5378            (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill  
5379 takes effect on March 1, 2012.

5380            (d) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill takes  
5381 effect on July 1, 2012.

5382            (e) Section 32B-5-309 as amended by this bill takes effect on July 1, 2012.

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**Legislative Review Note**  
**as of 2-17-11 5:09 PM**

**Office of Legislative Research and General Counsel**