

# HB0270S01 compared with HB0270

~~text~~ shows text that was in HB0270 but was deleted in HB0270S01.

inserted text shows text that was not in HB0270 but was inserted into HB0270S01.

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Representative Gage Froerer proposes the following substitute bill:

## ALCOHOLIC BEVERAGE CONTROL ~~LICENSE~~ AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies the Alcoholic Beverage Control Act to provide for changes ~~in the number of available~~ related to retail licenses and licensees.

#### Highlighted Provisions:

This bill:

- ▶ modifies definition provisions:
- ▶ modifies the numerical restrictions on the number of retail licenses that may be issued;
- ▶ modifies the law enforcement ratio; ~~\_\_\_\_\_~~
- ▶ modifies the conditional license provisions to apply to club licenses:
- ▶ modifies provisions related to requirements to provide notice of closure;
- ▶ modifies references to seasonal licenses; ~~\_\_\_\_\_~~

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- ▶ defines terms related to a designated bar area;
- ▶ adds factors the commission shall consider when issuing a full-service restaurant;
- ▶ modifies operational requirements for full-service restaurants;
- ▶ modifies operational requirements for limited-service restaurants;
- ▶ modifies operational requirements for reception centers;
- ▶ modifies operational requirements for beer only restaurants;
- ▶ eliminates dining clubs and provides for transition;
- ▶ repeals provisions ~~{related to conditional retail licenses}~~ granting credit for grandfathered bar structures; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill takes effect on July 1, 2012.

### Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-1-201, as last amended by Laws of Utah 2011, Chapter 334

32B-1-407, as last amended by Laws of Utah 2011, Chapters 297 and 334

32B-2-202, as last amended by Laws of Utah 2011, Chapter 334

32B-2-605, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-4-422, as last amended by Laws of Utah 2011, Chapter 307

~~{32B-2-206}~~32B-5-205, as ~~{last amended}~~ enacted by Laws of Utah ~~{2011}~~2010,  
Chapter ~~{336}~~276

32B-5-309 (Effective 07/01/12), as last amended by Laws of Utah 2011, Chapter 334

32B-6-202, as last amended by Laws of Utah 2011, Chapter 334

32B-6-203, as last amended by Laws of Utah 2011, Chapter 334

32B-6-205, as last amended by Laws of Utah 2011, Chapters 307 and 334

32B-6-302, as last amended by Laws of Utah 2011, Chapter 334

32B-6-303, as last amended by Laws of Utah 2011, Chapter 334

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32B-6-305, as last amended by Laws of Utah 2011, Chapters 307 and 334

32B-6-403, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-6-404, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-6-405, as last amended by Laws of Utah 2011, Chapters 307 and 334

32B-6-406, as last amended by Laws of Utah 2011, Chapter 334

32B-6-407, as last amended by Laws of Utah 2011, Chapter 297

32B-6-409, as enacted by Laws of Utah 2011, Chapter 334

32B-6-703, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-6-802, as enacted by Laws of Utah 2011, Chapter 334

32B-6-805, as enacted by Laws of Utah 2011, Chapter 334

32B-6-902 (Effective 03/01/12), as last amended by Laws of Utah 2011, Second  
Special Session, Chapter 2

32B-6-905 (Effective 03/01/12), as enacted by Laws of Utah 2011, Chapter 334

32B-8-402, as last amended by Laws of Utah 2011, Chapter 334

### REPEALS:

~~32B-5-205~~; 32B-6-205.1, as enacted by Laws of Utah 2010, Chapter 276

32B-6-305.1, as enacted by Laws of Utah 2010, Chapter 276

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

Section 1. Section 32B-1-102 is amended to read:

#### **32B-1-102. Definitions.**

As used in this title:

- (1) "Airport lounge" means a business location:
  - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
  - (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
  - (a) beer; or
  - (b) liquor.

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

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

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

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

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

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

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person;

and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to

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provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) ~~[(a)]~~ "Bar" means a surface or structure:

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

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

~~[(B)]~~ (ii) dispensed; or

~~[(ii)]~~ (b) from which an alcoholic product is served.

~~[(b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:]~~

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

~~[(ii) dispensed.]~~

(8) (a) Subject to Subsection (8)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

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

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (8)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.

(10) "Beer retailer" means a business:

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

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(b) to whom a license is issued:

(i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; or

(ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License.

(11) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(12) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(13) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(14) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(15) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

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

(a) under a single contract;

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

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

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(17) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.

(b) "Club license" includes:

~~[(i) a dining club license;]~~

~~[(ii)]~~ (i) an equity club license;

~~[(iii)]~~ (ii) a fraternal club license; or

~~[(iv)]~~ (iii) a social club license.

(19) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(20) "Commissioner" means a member of the commission.

(21) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(22) "Community location governing authority" means:

- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community

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

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

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

(24) "Convention center" means a facility that is:

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(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(26) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

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

(a) an auditor or inspector; and

(b) employed by the department.

(28) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

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

~~[(30)]~~ [(29)] "Director," unless the context requires otherwise, means the director of the department.

~~[(31)]~~ [(30)] "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

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

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

~~[(32) (a) Subject to Subsection (32)(b), "dispense" means:]~~

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

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

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

~~[(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the~~



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retail licensee.]

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

~~[(i) a full-service restaurant license;]~~

~~[(ii) a limited-service restaurant license;]~~

~~[(iii) a reception center license; and]~~

~~[(iv) a beer-only restaurant license.]~~

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

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

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

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

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

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

- (a) a single event permit; or
- (b) a temporary beer event permit.

~~[(38)]~~ (36) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of a retail license that the commission may issue at any time.

~~[(39)]~~ (37) (a) "Flavored malt beverage" means a beverage:

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

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

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

(iv) (A) for which the producer is required to file a formula for approval with the

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federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

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

~~[(40)]~~ (38) "Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.

~~[(41)]~~ (39) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

~~[(42)]~~ (40) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

~~[(43)]~~ (41) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

~~[(44)]~~ (42) "Health care practitioner" means:

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

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

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

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

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

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

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

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

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

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

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

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

~~[(45)]~~ (43) (a) "Heavy beer" means a product that:

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

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

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

~~[(46)]~~ (44) "Hotel" is as defined by the commission by rule.

~~[(47)]~~ (45) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

~~[(48)]~~ (46) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

~~[(49)]~~ (47) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

~~[(50)]~~ (48) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

~~[(51)]~~ (49) "Intoxicated" means that a person:

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

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections ~~[(51)]~~ (49)(a)(i) through (iii); and

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

~~[(52)]~~ [(50)] "Investigator" means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

~~[(53)]~~ [(51)] "Invitee" is as defined in Section 32B-8-102.

~~[(54)]~~ [(52)] "License" means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

~~[(55)]~~ [(53)] "Licensee" means a person who holds a license.

~~[(56)]~~ [(54)] "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

~~[(57)]~~ [(55)] "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~[(58)]~~ [(56)] (a) (i) "Liquor" means a liquid that:

- (A) is:
  - (I) alcohol;
  - (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
  - (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
  - (IV) other drink or drinkable liquid; and
- (B) (I) contains at least .5% alcohol by volume; and

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(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

~~[(59)]~~ [(57)] "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

~~[(60)]~~ [(58)] "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

~~[(61)]~~ [(59)] "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city or a town, the governing body of the city or town.

~~[(62)]~~ [(60)] "Lounge or bar area" is as defined by rule made by the commission.

~~[(63)]~~ [(61)] "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(64)]~~ [(62)] "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

~~[(65)]~~ [(63)] (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

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

(i) civil works;

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(ii) a rivers and harbors project; or

(iii) a flood control project.

~~[(66)]~~ (64) "Minor" means an individual under the age of 21 years.

~~[(67)]~~ (65) "Nondepartment enforcement agency" means an agency that:

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

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

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

~~[(68)]~~ (66) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

~~[(69)]~~ (67) (a) "Off-premise beer retailer" means a beer retailer who is:

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

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

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

~~[(70)]~~ (68) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

~~[(71)]~~ (69) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

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

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

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

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

~~[(72)]~~ (70) "Opaque" means impenetrable to sight.

~~[(73)]~~ (71) "Package agency" means a retail liquor location operated:

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(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

~~(74)~~ (72) "Package agent" means a person who holds a package agency.

~~(75)~~ (73) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

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

or

(h) an invitee.

~~(76)~~ (74) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

~~(77)~~ (75) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

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

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

(g) staff of:

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- (i) a person listed in Subsections ~~[(77)]~~[(75)](a) through (f); or
- (ii) a package agent.

~~[(78)]~~[(76)] "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~[(79)]~~[(77)] "Prescription" means an order issued by a health care practitioner when:

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

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

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

~~[(80)]~~[(78)] (a) "Private event" means a specific social, business, or recreational event:

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

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

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

~~[(81)]~~[(79)] (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

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

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

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



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

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with

Section 53-3-207.

~~[(82)]~~ (80) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

~~[(83)]~~ (81) "Public conveyance" means a conveyance to which the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(84)]~~ (82) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(84)]~~ (82)(a) to a third party for the third party's event.

~~[(85)]~~ (83) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(86)]~~ (84) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

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- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

~~[(87)]~~ [(85)] "Residence" means a person's principal place of abode within Utah.

~~[(88)]~~ [(86)] "Resident," in relation to a resort, is as defined in Section 32B-8-102.

~~[(89)]~~ [(87)] "Resort" is as defined in Section 32B-8-102.

~~[(90)]~~ [(88)] "Resort facility" is as defined by the commission by rule.

~~[(91)]~~ [(89)] "Resort license" means a license issued in accordance with Chapter 5,

Retail License Act, and Chapter 8, Resort License Act.

~~[(92)]~~ [(90)] "Restaurant" means a business location:

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

~~[(93)]~~ [(91)] "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a limited-service restaurant license;
- (c) a club license;
- (d) an airport lounge license;
- (e) an on-premise banquet license;
- (f) an on-premise beer license;
- (g) a reception center license; or
- (h) a beer-only restaurant license.

~~[(94)]~~ [(92)] "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

~~[(95)]~~ [(93)] "Serve" means to place an alcoholic product before an individual.

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~~[(96)]~~ (94) (a) "School" means a building used primarily for the general education of minors.

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

~~[(97)]~~ (95) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(98)]~~ (96) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

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

(b) on the premises of:

(i) a social club licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(98)]~~ (96)(b);

(d) on a contractual or voluntary basis; and

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

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

~~[(99)]~~ (97) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(100)]~~ (98) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

~~[(101)]~~ (99) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.

~~[(102)]~~ (100) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(103)]~~ (101) (a) "Spirituous liquor" means liquor that is distilled.

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

~~(104)~~ (102) "Sports center" is as defined by the commission by rule.

~~(105)~~ (103) (a) "Staff" means an individual who engages in activity governed by this title:

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

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

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

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

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

(vi) an operator; or

(vii) a representative.

~~(106)~~ (104) "State of nudity" means:

(a) the appearance of:

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

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

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

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

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

~~(107)~~ (105) "State of seminudity" means a state of dress in which opaque clothing

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covers no more than:

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

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

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

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

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

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

~~[(108)]~~ [(106)] (a) "State store" means a facility for the sale of packaged liquor:

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

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

~~[(109)]~~ [(107)] (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron ~~except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii)]~~.

~~[(110)]~~ [(108)] "Sublicense" is as defined in Section 32B-8-102.

~~[(111)]~~ [(109)] "Supplier" means a person who sells an alcoholic product to the department.

~~[(112)]~~ [(110)] "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

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

~~[(113)]~~ [(111)] "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

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~~[(114)]~~1(112) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

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

~~[(116)]~~1(113) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

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

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

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

~~[(117)]~~1(114) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

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

~~[(118)]~~1(115) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section ~~11~~2. Section **32B-1-201** is amended to read:

**32B-1-201. Restrictions on number of retail licenses that may be issued -- Determining population -- Exempt licenses.**

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(1) As used in this section:

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

(i) the enforcement of this title; or

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

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

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

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

(c) "Quota retail license" means:

~~(i) a full-service restaurant license;~~

~~(ii) a limited-service restaurant license;~~

~~(iii)~~ (i) a club license;

~~(iv)~~ (ii) an on-premise banquet license;

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

~~(vi)~~ (iv) a reception center license.

(d) "Total number of alcohol-related law enforcement officers" means the total number of positions designated as alcohol-related law enforcement officers that are funded as of a specified date as certified by the Department of Public Safety to the department.

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

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

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

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

(b) If, beginning on July 1, 2012, the enforcement ratio is greater than [52] ~~20~~25, the commission may not issue a quota retail license for the 12-month period beginning on the July 1 for which the enforcement ratio is greater than [52] ~~20~~25.

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(c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license during the 12-month period described in Subsection (2)(b) beginning on the day on which a sufficient number of alcohol-related law enforcement officers are employed so that if the enforcement ratio is calculated, the enforcement ratio would be equal to or less than ~~[52]~~ [20]25.

(d) Once the Department of Public Safety certifies under Subsection (1)(d) the total number of positions designated as alcohol-related law enforcement officers that are funded as of July 1, the Department of Public Safety may not use the funding for the designated alcohol-related law enforcement officers for a purpose other than funding those positions.

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

- (a) the most recent United States decennial or special census; or
- (b) another population determination made by the United States or state governments.

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

- (a) the retail license was issued to a club licensee designated as a dining club as of July 1, 2011; and
- (b) the dining club license is converted to another type of retail license in accordance with Section 32B-6-409.

### Section 3. Section 32B-1-407 is amended to read:

#### **32B-1-407. Verification of proof of age by applicable licensees.**

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

~~[(a) a dining club;]~~

~~[(b)]~~ (a) a social club; or

~~[(c)]~~ (b) a tavern.

(2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.

(3) An authorized person is required to verify proof of age under this section before an



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individual who appears to be 35 years of age or younger~~;~~

~~} (a) ( ) ] gains admittance to the premises of a social club licensee or tavern~~;~~ or ~~]~~  
 (b) procures an alcoholic product on the premises of a dining club licensee.]~~

(4) To comply with Subsection (3), an authorized person shall:

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

(b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

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

(5) The commission shall establish by rule an electronic verification program that includes the following:

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

(i) the name;

(ii) the age;

(iii) the number assigned to the individual's proof of age by the issuing authority;

(iv) the birth date;

(v) the gender; and

(vi) the status and expiration date of the individual's proof of age; and

(b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

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

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

(6) (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.

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

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Section ~~2~~4. Section **32B-2-202** is amended to read:

### **32B-2-202. Powers and duties of the commission.**

(1) The commission shall:

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

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

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

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

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

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

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

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a limited-service restaurant license;

(iv) a club license;

(v) an airport lounge license;

(vi) an on-premise banquet license;

(vii) a resort license, under which four or more sublicenses may be included;

(viii) an on-premise beer retailer license;

(ix) a reception center license;

(x) a beer-only restaurant license;

(xi) a single event permit;

(xii) a temporary beer event permit;

(xiii) a special use permit;

(xiv) a manufacturing license;

(xv) a liquor warehousing license;

(xvi) a beer wholesaling license; and

(xvii) one of the following that holds a certificate of approval:

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(A) an out-of-state brewer;

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

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

~~§§~~(f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke ~~one of the following~~ conditional club licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product~~[-];~~;

~~[(i) a conditional full-service restaurant license; or]~~

~~[(ii) a conditional limited-service restaurant license;]~~

~~§§~~(g) ~~§§~~ prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

~~§§~~(h) ~~§§~~(g) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

~~§§~~(i) ~~§§~~(h) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

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

~~§§~~(k) ~~§§~~(j) (i) require the director to follow sound management principles; and

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

(A) sound management principles are being followed; and

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

~~§§~~(l) ~~§§~~(k) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

~~§§~~(m) ~~§§~~(l) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

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

~~§§~~(o) ~~§§~~(n) make rules governing the credit terms of beer sales within the state to

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retail licensees; and

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

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

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

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

Section ~~{3}~~5. Section ~~{32B-2-206}~~32B-2-605 is amended to read:

~~{~~ ~~**32B-2-206. Powers and duties of the director.**~~

~~Subject to the powers and responsibilities of the commission under this title, the director:~~

~~(1) (a) shall prepare and propose to the commission general policies, rules, and procedures governing the administrative activities of the department; and~~

~~(b) may submit other recommendations to the commission as the director considers in the interest of the commission's or the department's business;~~

~~(2) within the general policies, rules, and procedures of the commission, shall:~~

~~(a) provide day-to-day direction, coordination, and delegation of responsibilities in the administrative activities of the department's business; and~~

~~(b) make internal department policies and procedures relating to:~~

~~(i) department personnel matters; and~~

~~(ii) the day-to-day operation of the department;~~

~~(3) subject to Section 32B-2-207, shall appoint or employ personnel as considered necessary in the administration of this title, and with regard to the personnel shall:~~

~~(a) prescribe the conditions of employment;~~

~~(b) define the respective duties and powers; and~~

~~(c) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel Management Act;~~

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- ~~—— (4) shall establish and secure adherence to a system of reports, controls, and performance in matters relating to personnel, security, department property management, and operation of:~~
- ~~—— (a) a department office;~~
  - ~~—— (b) a warehouse;~~
  - ~~—— (c) a state store; and~~
  - ~~—— (d) a package agency;~~
- ~~—— (5) within the policies, rules, and procedures approved by the commission and provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage, sale, furnishing, transportation, or delivery of an alcoholic product;~~
- ~~—— (6) shall prepare for commission approval:~~
- ~~—— (a) recommendations regarding the location, establishment, relocation, and closure of a state store or package agency;~~
  - ~~—— (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or revocation of a license, permit, or certificate of approval;~~
  - ~~—— (c) an annual budget, proposed legislation, and reports as required by law and sound business principles;~~
  - ~~—— (d) plans for reorganizing divisions of the department and the functions of the divisions;~~
  - ~~—— (e) manuals containing commission and department policies, rules, and procedures;~~
  - ~~—— (f) an inventory control system;~~
  - ~~—— (g) any other report or recommendation requested by the commission;~~
  - ~~—— (h) rules described in Subsection 32B-2-202(1)(o)(n) governing the credit terms of the sale of beer;~~
  - ~~—— (i) rules governing the calibration, maintenance, and regulation of a calibrated metered dispensing system;~~
  - ~~—— (j) rules governing the display of a list of types and brand names of liquor furnished through a calibrated metered dispensing system;~~
  - ~~—— (k) price lists issued and distributed showing the price to be paid for each class, variety, or brand of liquor kept for sale at a state store, package agency, or retail licensee;~~
  - ~~—— (l) policies or rules prescribing the books of account maintained by the department and~~

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~~by a state store, package agency, or retail licensee; and~~

~~—— (m) a policy prescribing the manner of giving and serving a notice required by this title or rules made under this title;~~

~~—— (7) shall make available through the department to any person, upon request, a copy of a policy made by the director;~~

~~—— (8) shall make and maintain a current copy of a manual that contains the rules and policies of the commission and department available for public inspection;~~

~~—— (9) (a) after consultation with the governor, shall determine whether an alcoholic product should not be sold, offered for sale, or otherwise furnished in an area of the state during a period of emergency that is proclaimed by the governor to exist in that area; and~~

~~—— (b) shall issue a necessary public announcement or policy with respect to the determination described in Subsection (9)(a); and~~

~~—— (10) shall perform any other duty required by the commission or by law.~~

### ‡ **32B-2-605. Operational requirements for package agency.**

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

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

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

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

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

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

(i) the package agent; or

(ii) an individual designated by the package agent.

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

(i) an employee of the package agent; and

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

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

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

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

(f) A package agent shall:

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

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

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

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

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

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

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

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

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

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

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

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

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(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

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

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

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

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

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

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

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

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

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

(c) (i) The department may authorize a closure or cessation of operation for a period



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not to exceed 60 days.

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

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

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

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

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

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

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

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

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

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

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

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

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance

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with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

- (A) a full-service restaurant license;
- (B) a limited-service restaurant license; or
- (C) a beer-only restaurant license; ~~[or]~~
- ~~[(D) dining club license;]~~

(iii) the restaurant ~~[or dining club]~~ is located at the manufacturing facility;

(iv) the restaurant ~~[or dining club]~~ sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

- (A) owns the restaurant ~~[or dining club]~~; or
- (B) operates the restaurant ~~[or dining club]~~;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant ~~[or dining club]~~.

(c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if the package agent that holds the package agency to sell liquor at the resort does not sell liquor in a manner similar to a state store.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

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

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

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

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

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

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

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

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

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

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

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

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

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

(iii) subject to:

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

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

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

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

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

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

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- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

Section 6. Section 32B-4-422 is amended to read:

### **32B-4-422. Unlawful dispensing.**

(1) For purposes of this section:

(a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary alcoholic product used as a flavoring in conjunction with the primary distilled spirit in a beverage.

(2) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous liquor for consumption on the licensed premises, or staff of the retail licensee may not:

(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department;

(b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per beverage;

(c) allow a person on the licensed premises to have more than a total of 2.5 ounces of spirituous liquor at a time; or

(d) (i) except as provided in Subsection (2)(d)(ii), allow a person to have more than two spirituous liquor beverages at a time; or

(ii) allow a person on the premises of the following to have more than one spirituous liquor beverage at a time:

~~[(A) a full-service restaurant licensee;]~~

~~[(B) a person operating under a full-service restaurant sublicense;]~~

~~[(C)]~~ (A) an on-premise banquet licensee;

~~[(D)]~~ (B) a person operating under an on-premise banquet sublicense; or

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~~[(E)]~~ [(C)] a single event permittee.

(3) A violation of this section is a class C misdemeanor.

Section 7. Section 32B-5-205 is amended to read:

### **32B-5-205. Conditional retail license.**

(1) As used in this section:

(a) "Conditional retail license" means a retail license that:

(i) is for ~~[one of the following:]~~ a club license;

~~[(A) a full-service restaurant license; or]~~

~~[(B) a limited-service restaurant license;]~~

(ii) conditions the holder's ability to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises on the person submitting to the department a copy of the holder's current business license before obtaining a valid retail license; and

(iii) provides that the holder will be issued a valid retail license if the holder complies with the requirements of Subsection (3).

(b) "Valid retail license" means a retail license issued pursuant to this part under which the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises.

(2) Subject to the requirements of this section, the commission may issue a conditional retail license to a person if the person:

(a) meets the requirements to obtain the retail license for which the person is applying except the requirement to submit a copy of the person's current business license; and

(b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises before obtaining a valid retail license.

(3) (a) A conditional retail license becomes a valid retail license on the day on which the department notifies the person who holds the conditional retail license that the department finds that the person has complied with Subsection (3)(b).

(b) For a conditional retail license to become a valid retail license, a person who holds the conditional retail license shall:

(i) submit to the department a copy of the person's current business license; and

(ii) provide to the department evidence satisfactory to the department that:

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(A) there has been no change in the information submitted to the commission as part of the person's application for a retail license; and

(B) the person continues to qualify for the retail license.

(4) A conditional retail license expires ~~six~~ 12 months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a valid retail license before that day.

Section 8. Section 32B-5-309 (Effective 07/01/12) is amended to read:

32B-5-309 (Effective 07/01/12). Ceasing operation.

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

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

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

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

(3) (a) The department may authorize a closure or cessation of operation of a retail licensee for a period not to exceed 60 days.

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

(i) written request of the retail licensee; and

(ii) a showing of good cause.

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

(5) A notice required under this section shall include:

(a) the dates of closure or cessation of operation;

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

(c) the date on which the retail licensee will reopen or resume operation.

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

(a) the retail license; and

(b) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.

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

(a) the retail license; and

(b) the unused portion of the retail license fee for the remainder of the retail license year.

(8) This section does not apply to:

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

(b) an airport lounge licensee[-];

(c) a full-service restaurant licensee;

(d) a limited-service restaurant licensee; or

(e) a beer-only restaurant licensee.

Section 9. Section 32B-6-202 is amended to read:

### **32B-6-202. Definitions.**

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]~~

~~[(H) 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]~~

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

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

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

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

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

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~~[(H)] is issued the full-service restaurant license by no later than December 31, 2009; and~~

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

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

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

~~[(A)] a person applying for a full-service restaurant license;~~

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

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

~~[(H)] is issued a full-service restaurant license by no later than December 31, 2009; and~~

~~[(B)] once constructed, the licensed premises has a bar structure with no patron seating;~~

~~[(b)] "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission;~~

~~[(c)] Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership;~~

~~[(2)] "Seating grandfathered bar structure" means:~~

~~[(a)] a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or~~

~~[(b)] a bar structure grandfathered under Section 32B-6-409;~~

(1) "Bar seating" means patron seating at a bar or at a table and chair within a designated bar area.

(2) "Designated bar area" means the area in which a bar and bar seating, if any, is located that is approved by the commission in accordance with rules made by the commission.

Section 10. Section 32B-6-203 is amended to read:

**32B-6-203. Commission's power to issue full-service restaurant license.**

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

(2) The commission may issue a full-service restaurant license to establish full-service



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restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

~~[(3) Subject to Section 32B-1-201:]~~

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

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

~~[(c)(i)] (3) (a) If the location, design, and construction of a hotel may require more than one full-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:~~

~~[(A)] (i) the hotel has a minimum of 150 guest rooms; and~~

~~[(B)] (ii) the locations under the full-service restaurant license are:~~

~~[(+)] (A) within the same hotel; and~~

~~[(#)] (B) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee.~~

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

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

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

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

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

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

(5) When considering an application for a full-service restaurant license, the commission shall consider the following:

(a) the total square footage and seating capacity of the premises;

(b) the square footage and seating capacity of the restaurant dining area in comparison to the square footage and seating capacity of the designated bar area;

(c) whether full meals, including appetizers, main courses, and desserts are available to patrons seated in a designated bar area;

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

(e) whether the entertainment provided at the restaurant, if any, is suitable for minors;

(f) the restaurant management's ability to manage and operate a full-service restaurant including:

(i) management experience;

(ii) past restaurant management experience;

(iii) the type of management scheme used by the full-service restaurant license; and

(iv) the policies and procedures for complying with Chapter 4, Criminal Offenses and Procedure Act, to prevent the sale, offer for sale, or furnishing of an alcoholic product to a minor or to a person actually or apparently intoxicated.

Section 11. Section 32B-6-205 is amended to read:

**32B-6-205. Specific operational requirements for a full-service restaurant license.**

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

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

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in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant

licensee.

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

~~[(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).]~~

~~[(4)]~~ [(3)] (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection ~~[(4)]~~ [(3)] shall list the type and amount of an alcoholic product ordered or consumed.

~~[(5)]~~ [(4)] A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

~~[(6)]~~ [(5)] (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at the licensed premises on any day during the period that:

- (i) begins at midnight; and
- (ii) ends at 11:29 a.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer, except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before 11:30 a.m. on any day.

~~[(7)]~~ [(6)] A full-service restaurant licensee shall maintain at least ~~[70%]~~ [65%] of its total restaurant business from the sale of food, which does not include:

- (a) mix for an alcoholic product; or
- (b) a service charge.

~~[(8)(a) A full-service restaurant licensee may not sell, offer for sale, or furnish an~~

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~~alcoholic product except in connection with an order for food prepared, sold, and furnished at the licensed premises.]~~

~~[(b)]~~ (7) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

~~[(b)] A patron may not have more than one spirituous liquor drink at a time before the patron.]~~

~~[(e)]~~ (b) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(9)]~~ (8)(a).

~~[(10)] A patron may consume an alcoholic product only:]~~

~~[(a)] at:]~~

~~[(i)] the patron's table;]~~

~~[(ii)] a counter; or]~~

~~[(iii)] a seating grandfathered bar structure; and]~~

~~[(b)] where food is served.]~~

~~[(11)] (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.]~~

~~[(b)] At a seating grandfathered bar structure]~~

(9) (a) Within a designated bar ~~structure~~ area, a patron who is 21 years of age or older may:

~~[(i)] sit;]~~

~~[(ii)]~~ (i) be furnished an alcoholic product; and

~~[(iii)]~~ (ii) consume an alcoholic product.

~~[(e)]~~ (b) Except as provided in Subsection ~~[(11)](d), at a seating grandfathered bar structure]~~ (9)(c), within a designated bar area, a full-service restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

~~[(d)]~~ (c) (i) A minor may be ~~[at a seating grandfathered bar structure]~~ within a

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designated bar area if the minor is employed by a full-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by ~~[a seating grandfathered bar structure]~~ or through a designated bar area without remaining or sitting at ~~[the bar structure]~~ any bar seating en route to an area of a full-service restaurant licensee's premises in which the minor is permitted to be.

~~[(12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:]~~

~~[(a) the alcoholic product is dispensed from:]~~

~~[(i) a grandfathered bar structure:]~~

~~[(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or]~~

~~[(iii) an area that is:]~~

~~[(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:]~~

~~[(I) not readily visible to a patron; and]~~

~~[(II) not accessible by a patron; and]~~

~~[(B) apart from an area used:]~~

~~[(I) for dining;]~~

~~[(II) for staging; or]~~

~~[(III) as a lobby or waiting area;]~~

~~[(b) the full-service restaurant licensee uses an alcoholic product that is:]~~

~~[(i) stored in an area described in Subsection (12)(a); or]~~

~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

~~[(A) immediately before the alcoholic product is dispensed it is in an unopened container;]~~

~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~

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it is opened; and

~~(C) once opened, the container is stored in an area described in Subsection (12)(a); and~~

~~(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).~~

~~(13)~~ (10) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

Section 12. Section 32B-6-302 is amended to read:

### **32B-6-302. Definitions.**

As used in this part:

~~(1)(a) "Grandfathered bar structure" means a bar structure in a licensed premises of a limited-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~~

~~(H) 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~~

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

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

~~(A) a person applying for a limited-service restaurant license;~~

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

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

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~~[(H)] is issued the limited-service restaurant license by no later than December 31, 2009; and~~

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

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

~~[(iv) is not operational as of May 12, 2009, if;~~

~~[(A) a person applying for a limited-service restaurant license;~~

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

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

~~[(HH) is issued a limited-service restaurant license by no later than December 31, 2009; and~~

~~[(B) once constructed, the licensed premises has a bar structure with no patron seating;~~

~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission;~~

~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership;~~

~~[(2) "Seating grandfathered bar structure" means;~~

~~[(a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or~~

~~[(b) a bar structure grandfathered under Section 32B-6-409;~~

~~[(3) "Wine"~~

As used in this part, "wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:

~~[(a)] (1) sparkling and carbonated wine;~~

~~[(b)] (2) wine made from condensed grape must;~~

~~[(c)] (3) wine made from other agricultural products than the juice of sound, ripe grapes;~~

~~[(d)] (4) imitation wine;~~

~~[(e)] (5) compounds sold as wine;~~

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~~[(f)] (6)~~ vermouth;

~~[(g)] (7)~~ cider;

~~[(h)] (8)~~ perry; and

~~[(i)] sake;~~ ~~[(i)] (9)~~ sake.

Section 13. Section 32B-6-303 is amended to read:

### 32B-6-303. Commission's power to issue limited-service restaurant license.

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

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

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

(i) spirituous liquor; or

(ii) a flavored malt beverage.

(3) (a) ~~Subject to Section 32B-1-201: (a) The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 8,373. (b) The commission may issue a seasonal limited-service restaurant license in accordance with Section 32B-5-206. (c) (i)]~~ If the location, design, and construction of a hotel may require more than one limited-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three limited-service restaurant locations within the hotel under one limited-service restaurant license if:

~~[(A)] (i) the hotel has a minimum of 150 guest rooms; and~~

~~[(B)] (ii) the locations under the limited-service restaurant license are:~~

~~[(f)] (A) within the same hotel; and~~

~~[(H)] (B) on premises that are managed or operated, and owned or leased by the limited-service restaurant licensee.~~

~~[(ii)] (b) A facility other than a hotel shall have a separate limited-service restaurant~~



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license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished.

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

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

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

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

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

Section 14. Section **32B-6-305** is amended to read:

**32B-6-305. Specific operational requirements for a limited-service restaurant license.**

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

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

(i) a limited-service restaurant licensee;

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

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

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

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- (i) spirituous liquor; or
- (ii) a flavored malt beverage.
- (b) A product listed in Subsection (2)(a) may not be on the premises of a

limited-service restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

~~[(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).]~~

~~[(4)]~~ [(3)] (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection ~~[(4)]~~ [(3)] shall list the type and amount of an alcoholic product ordered or consumed.

~~[(5)]~~ [(4)] A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.

~~[(6)]~~ [(5)] (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine or heavy beer at the licensed premises on any day during the period that:

- (i) begins at midnight; and
- (ii) ends at 11:29 a.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer, except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer before 11:30 a.m. on any day.

~~[(7)]~~ [(6)] A limited-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.

~~[(8)(a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except in connection with an order for food prepared, sold, and furnished at the licensed premises.]~~

~~[(b)]~~ [(7)] A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ [(8)] (a) Subject to the other provisions of this Subsection ~~[(9)]~~ [(8)], a patron may

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not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(9)]~~ (8)(a).

~~[(10)]~~ (9) A patron may consume an alcoholic product only:

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a ~~seating grandfathered~~ bar ~~structure~~; and

(b) where food is served.

~~[(11)]~~ (a) ~~A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.~~

~~[(b)]~~ (10) (a) At a ~~seating grandfathered~~ bar ~~structure~~ a patron who is 21 years of age or older may:

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

~~[(c)]~~ (b) Except as provided in Subsection ~~[(11)]~~ ~~(d)~~ (10) (c), at a ~~seating grandfathered~~ bar ~~structure~~ a limited-service restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

~~[(d)]~~ (c) (i) A minor may be at a ~~seating grandfathered~~ bar ~~structure~~ if the minor is employed by a limited-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a ~~seating grandfathered~~ bar ~~structure~~ without remaining or sitting at the bar ~~structure~~ en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be.

~~[(12)]~~ Except as provided in Subsection 32B-5-307(3), a limited-service restaurant

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~~licensee may dispense an alcoholic product only if:~~

~~[(a) the alcoholic product is dispensed from:~~

~~[(i) a grandfathered bar structure;~~

~~[(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or~~

~~[(iii) an area that is:~~

~~[(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:~~

~~[(I) not readily visible to a patron; and~~

~~[(H) not accessible by a patron; and~~

~~[(B) apart from an area used:~~

~~[(I) for dining;~~

~~[(H) for staging; or~~

~~[(H) as a lobby or waiting area;~~

~~[(b) the limited-service restaurant licensee uses an alcoholic product that is:~~

~~[(i) stored in an area described in Subsection (12)(a); or~~

~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:~~

~~[(A) immediately before the alcoholic product is dispensed it is in an unopened container;~~

~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and~~

~~[(C) once opened, the container is stored in an area described in Subsection (12)(a); and~~

~~[(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a):~~

~~[(13)] (11) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:~~

~~(a) a set-up charge;~~

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- (b) a service charge; or
- (c) a chilling fee.

Section 15. Section 32B-6-403 is amended to read:

### **32B-6-403. Commission's power to issue club license.**

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

(2) The commission may issue a club license to establish club licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a club licensee.

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

(a) The commission may not issue a total number of club licenses that at any time exceeds the number determined by dividing the population of the state by ~~[7,850]~~ 9,500.

(b) The commission may issue a seasonal club license in accordance with Section 32B-5-206 to ~~the~~

~~\_\_\_\_\_ } (i) a dining club licensee; or {~~

~~\_\_\_\_\_ } (ii) { } ] a social club licensee.~~

(c) (i) If the location, design, and construction of a hotel may require more than one ~~[dining club license or]~~ social club license location within the hotel to serve the public convenience, the commission may authorize as many as three club license locations within the hotel under one club license if:

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

(B) all locations under the club license are:

(I) within the same hotel; and

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

(ii) A facility other than a hotel shall have a separate club license for each club license location where an alcoholic product is sold, offered for sale, or furnished.

(d) When a business establishment undergoes a change of ownership, the commission may issue a club license to the new owner of the business establishment notwithstanding that there is no club license available under Subsection (3)(a) if:

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- (i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;
  - (ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a club license;
  - (iii) subject to Subsection (3)(e), the licensed premises of the club license issued under this Subsection (3)(d) is at the same location where the club license licensed premises was located before the change of ownership; and
  - (iv) the person who is the new owner of the business establishment qualifies for the club license, except for there being no club license available under Subsection (3)(a).
- (e) If a club licensee of a club license issued under Subsection (3)(d) requests a change of location, the club licensee may retain the club license after the change of location only if on the day on which the club licensee seeks a change of location a club license is available under Subsection (3)(a).

### Section 16. Section 32B-6-404 is amended to read:

#### **32B-6-404. Types of club license.**

- (1) To obtain an equity club license, in addition to meeting the other requirements of this part, a person shall:
- (a) whether incorporated or unincorporated:
    - (i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;
    - (ii) have members;
    - (iii) limit access to its licensed premises to a member or a guest of the member; and
    - (iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
  - (b) own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:
    - (i) a golf course; or
    - (ii) a tennis facility;
  - (c) have at least 50% of the total membership having:
    - (i) full voting rights; and

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(ii) an equal share of the equity of the club; and

(d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to:

(i) full voting rights; and

(ii) an equal share of the equity of the club.

(2) To obtain a fraternal club license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) have no capital stock;

(c) exist solely for:

(i) the benefit of its members and their beneficiaries; and

(ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

(d) have a representative form of government;

(e) have a lodge system in which:

(i) there is a supreme governing body;

(ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

(iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and

(iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and

(f) own or lease a building or space in a building used for lodge activities.

~~(3) To obtain a dining club license, in addition to meeting the other requirements of~~

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~~this part, a person shall:~~

~~(a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:~~

~~(i) for a dining club license that is issued an original license on or after July 1, 2011, 60%; and~~

~~(ii) for a dining club license that is issued on or before June 30, 2011:~~

~~(A) 50% on or before June 30, 2012; and~~

~~(B) 60% on and after July 1, 2012; and~~

~~(b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:~~

~~(i) the square footage and seating capacity of the premises;~~

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

~~(iii) whether full meals including appetizers, main courses, and desserts are served;~~

~~(iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;~~

~~(v) whether the entertainment provided at the club is suitable for minors; and~~

~~(vi) the club management's ability to manage and operate a dining club license including:~~

~~(A) management experience;~~

~~(B) past dining club licensee or restaurant management experience; and~~

~~(C) the type of management scheme used by the dining club license.~~

~~(4) (3) To obtain a social club license, a person is required to meet the requirements of this part except those listed in Subsection (1) ~~;~~ or (2) ~~;~~ or (3).~~

~~(5) (4) (a) At the time that the commission issues a club license, the commission shall designate the type of club license for which the person qualifies.~~

(b) If requested by a club licensee, the commission may approve a change in the type of club license in accordance with rules made by the commission.

~~(6) (5) To the extent not prohibited by law, this part does not prevent a ~~dining club licensee or~~ social club licensee from restricting access to the club's licensed premises on the~~



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basis of an individual:

- (a) paying a fee; or
- (b) agreeing to being on a list of individuals who have access to the club's licensed

premises.

Section 17. Section 32B-6-405 is amended to read:

### **32B-6-405. Specific licensing requirements for club license.**

(1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

(a) (i) a statement as to whether the person is seeking to qualify as:

(A) an equity club licensee;

(B) a fraternal club licensee; or

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

~~[(D)]~~ (C) a social club licensee; and

(ii) evidence that the person meets the requirements for the type of club license for which the person is applying;

(b) evidence that the person operates club premises where a variety of food is prepared and served in connection with dining accommodations; and

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

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

(a) reasonable; and

(b) consistent with:

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

(ii) the purposes of this part.

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

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

(4) (a) The nonrefundable application fee for a club license is \$300.

(b) The initial license fee for a club license is \$2,750.

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(c) The renewal fee for a club license is \$2,000.

(5) The bond amount required for a club license is the penal sum of \$10,000.

Section 18. Section 32B-6-406 is amended to read:

### **32B-6-406. Specific operational requirements for a club license.**

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

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

(i) a club licensee;

(ii) individual staff of a club licensee; or

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

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

(3) (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the club licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a club licensee at least once annually.

(4) (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A club licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its licensed premises open for one hour after the club licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the club licensee may finish consuming:

(A) a single drink containing spirituous liquor;

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- (B) a single serving of wine not exceeding five ounces;
- (C) a single serving of heavy beer;
- (D) a single serving of beer not exceeding 26 ounces; or
- (E) a single serving of a flavored malt beverage.

(ii) A club licensee is not required to remain open:

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

(5) (a) A minor may not be admitted into, use, or be in:

(i) a lounge or bar area of the premises of:

- (A) an equity club licensee; or
- (B) a fraternal club licensee; or

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

~~[(ii) the premises of:]~~

~~[(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or]~~

~~[(B)]~~ [(ii)] a social club licensee, except to the extent provided for under Section 32B-6-406.1.

(b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity club licensee~~[-]~~ or fraternal club licensee~~[-]~~ or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a social club licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a club licensee.

(6) A club licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the club licensee patron

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if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A club licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the club licensee rents or leases the premises agrees in writing to comply with this title as if the person is the club licensee, except for a requirement related to making or maintaining a record; and

(b) the club licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a club licensee is an equity club licensee or fraternal club licensee, the club licensee shall comply with Section 32B-6-407.

(11) If a club licensee is a ~~dining club licensee or~~ social club licensee, the club licensee shall comply with Section 32B-1-407.

(12) (a) A club licensee shall own or lease premises suitable for the club licensee's activities.

(b) A club licensee may not maintain licensed premises in a manner that barricades or conceals the club licensee's operation.

Section 19. Section 32B-6-407 is amended to read:

**32B-6-407. Specific operational requirements for equity club license or fraternal club license.**

(1) For purposes of this section only:

- (a) "Club licensee" means an equity club licensee or fraternal club licensee.
- (b) "Club licensee" does not include a ~~dining club licensee or~~ social club licensee.

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(2) (a) A club licensee shall have a governing body that:

(i) consists of three or more members of the club; and

(ii) holds regular meetings to:

(A) review membership applications; and

(B) conduct other business as required by the bylaws or house rules of the club.

(b) (i) A club licensee shall maintain a minute book that is posted currently by the club licensee.

(ii) The minute book required by this Subsection (2) shall contain the minutes of a regular or special meeting of the governing body.

(3) A club licensee may admit an individual as a member only on written application signed by the person, subject to:

(a) the person paying an application fee; and

(b) investigation, vote, and approval of a quorum of the governing body.

(4) A club licensee shall:

(a) record an admission of a member in the official minutes of a regular meeting of the governing body; and

(b) whether approved or disapproved, file an application as a part of the official records of the club licensee.

(5) The spouse of a member of a club licensee has the rights and privileges of the member:

(a) to the extent permitted by the bylaws or house rules of the club licensee; and

(b) except to the extent restricted by this title.

(6) A minor child of a member of a club licensee has the rights and privileges of the member:

(a) to the extent permitted by the bylaws or house rules of the club licensee; and

(b) except to the extent restricted by this title.

(7) A club licensee shall maintain:

(a) a current and complete membership record showing:

(i) the date of application of a proposed member;

(ii) a member's address;

(iii) the date the governing body approved a member's admission;

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- (iv) the date initiation fees and dues are assessed and paid; and
- (v) the serial number of the membership card issued to a member;
- (b) a membership list; and
- (c) a current record indicating when a member is removed as a member or resigns.

(8) (a) A club licensee shall have bylaws or house rules that include provisions

respecting the following:

- (i) standards of eligibility for members;
- (ii) limitation of members, consistent with the nature and purpose of the club;
- (iii) the period for which dues are paid, and the date upon which the period expires;
- (iv) provisions for removing a member from the club membership for the nonpayment

of dues or other cause;

- (v) provisions for guests; and
- (vi) application fees and membership dues.

(b) A club licensee shall maintain a current copy of the club licensee's current bylaws and current house rules.

(c) A club licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.

(9) A club licensee may, in its discretion, allow an individual to be admitted to or use the club licensed premises as a guest subject to the following conditions:

(a) the individual is allowed to use the club licensee premises only to the extent permitted by the club licensee's bylaws or house rules;

(b) the individual shall be previously authorized by a member of the club who agrees to host the individual as a guest into the club;

(c) the individual has only those privileges derived from the individual's host for the duration of the individual's visit to the club licensee premises; and

(d) a club licensee or staff of the club licensee may not enter into an agreement or arrangement with a club member to indiscriminately host a member of the general public into the club licensee premises as a guest.

(10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club licensed premises without a host if:

- (a) (i) the club licensee is an equity club licensee; and

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(ii) the individual is a member of an equity club licensee that has reciprocal guest privileges with the equity club licensee for which the individual is a guest; or

(b) (i) the club licensee is a fraternal club licensee; and

(ii) the individual is a member of the same fraternal organization as the fraternal club licensee for which the individual is a guest.

(11) Unless the patron is a member or guest, a club licensee may not:

(a) sell, offer for sale, or furnish an alcoholic product to the patron; or

(b) allow the patron to be admitted to or use the licensed premises.

(12) A minor may not be a member, officer, director, or trustee of a club licensee.

(13) Public advertising related to a club licensee by the following shall clearly identify a club as being "a club for members":

(a) the club licensee;

(b) staff of the club licensee; or

(c) a person under a contract or agreement with the club licensee.

Section 20. Section 32B-6-409 is amended to read:

**32B-6-409. Conversion from dining club license to different type of retail license.**

(1) In accordance with this section, a dining club licensee [may] that exists as of June 30, 2012 shall convert its dining club license to a different type of retail license~~[-including a different type of club license]~~ during the time period:

(a) beginning on July 1, [2011] 2012; and

(b) ending on June 30, [2013] 2014.

(2) A dining club licensee may convert its dining club license only to a retail license for which the dining club licensee qualifies.

(3) The commission shall provide a procedure for a dining club to convert to a different type of retail license as provided in this section by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) Before being converted to another type of retail license, a dining club license shall operate as a dining club under the law in effect as of June 30, 2012.

~~(4)~~ (b) After a dining club license is converted to another type of retail license, the retail licensee shall operate under the provisions relevant to the type of retail license held by the retail licensee, except that, in accordance with Section 32B-1-201, the retail license is not

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considered in determining the total number of licenses available for that type of retail license.

~~[(5) If a dining club license is converted to full-service restaurant license, limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining club is considered.]~~

~~[(a) a seating grandfathered bar structure for purposes of a full-service restaurant license or a limited-service restaurant license; or]~~

~~[(b) a grandfathered bar structure for purposes of a beer-only restaurant license.]~~

Section 21. Section 32B-6-703 is amended to read:

### **32B-6-703. Commission's power to issue on-premise beer retailer license.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise beer retailer license from the commission in accordance with this part.

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

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

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

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

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

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

(I) a beer bar;

(II) a parlor;

(III) a lounge;

(IV) a cabaret; or

(V) a nightclub;



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- (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
  - (I) whether the on-premise beer retailer will sell food in the establishment; and
  - (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;
- (C) whether full meals including appetizers, main courses, and desserts will be served;
- (D) the square footage and seating capacity of the premises;
- (E) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;
- (F) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;
- (G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and
- (H) the beer retailer management's ability to manage and operate an on-premise beer retailer license including:
  - (I) management experience;
  - (II) past beer retailer management experience; and
  - (III) the type of management scheme that will be used by the beer retailer.
- (e) On or after March 1, 2012:
  - (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
    - (A) maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer; or
    - (B) have a recreational amenity on or directly adjoining the licensed premises of the beer retailer and maintain at least 70% of the person's total gross revenues from the sale of food.
  - (ii) The commission may not license a person as an on-premise beer retailer if the person does not:
    - (A) meet the requirements of Subsection (2)(e)(i); or
    - (B) operate as a tavern.
    - ~~(iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July~~

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~~1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1, 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).~~

~~(B) If an on-premise beer retailer fails to notify the department as required by Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012, and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).~~

~~(iv) A person who, after August 1, 2011, applies for an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii).~~

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

(a) The commission may not issue a total number of on-premise beer retailer licenses that are taverns that at any time exceeds the number determined by dividing the population of the state by 54,147.

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

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

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

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

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

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

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

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

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Section 22. Section 32B-6-802 is amended to read:

**32B-6-802. Definitions.**

[Reserved] As used in this part:

(1) "Bar seating" means patron seating at a bar or at a table and chair within a designated bar area.

(2) "Designated bar area" means the area in which a bar and bar seating, if any, is located that is approved by the commission in accordance with rules made by the commission.

Section 23. Section 32B-6-805 is amended to read:

**32B-6-805. Specific operational requirements for a reception center license.**

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

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

- (i) a reception center licensee;
- (ii) individual staff of a reception center licensee; or
- (iii) both a reception center licensee and staff of the reception center licensee.

~~[(2) In addition to complying with Section 32B-5-303, a reception center licensee shall store an alcoholic product in a storage area described in Subsection (15)(a).]~~

~~[(3)]~~ (2) (a) For the purpose described in Subsection ~~[(3)]~~ (2)(b), a reception center licensee shall provide the following with advance notice of a scheduled event in accordance with rules made by the commission:

- (i) the department; and
- (ii) the local law enforcement agency responsible for the enforcement of this title in the jurisdiction where the reception center is located.

(b) Any of the following may conduct a random inspection of an event:

- (i) an authorized representative of the commission or the department; or
- (ii) a law enforcement officer.

~~[(4)]~~ (3) (a) Except as otherwise provided in this title, a reception center licensee may sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the reception center's licensed premises.

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(b) A host of an event, a patron, or a person other than the reception center licensee or staff of the reception center licensee, may not remove an alcoholic product from the reception center's licensed premises.

(c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an alcoholic product into or onto, or remove an alcoholic product from, the reception center.

~~[(5)]~~ [(4)] (a) A reception center licensee may not leave an unsold alcoholic product at an event following the conclusion of the event.

(b) At the conclusion of an event, a reception center licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the reception center licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection ~~[(5)]~~ [(4)](b) with regard to an open or sealed container of an alcoholic product not sold or consumed at an event, a reception center licensee ~~;~~

~~— (i) shall store the alcoholic product in accordance with Subsection (2); and~~

~~— (ii) ~~{ }~~ may use the alcoholic product at more than one event.~~

~~[(6)]~~ [(5)] Notwithstanding Section 32B-5-308, a reception center licensee may not employ a minor in connection with an event at the reception center at which food is not made available.

~~[(7)]~~ [(6)] A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a reception center licensee.

~~[(8)]~~ [(7)] A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at the licensed premises on any day during the period that:

(a) begins at 1 a.m.; and

(b) ends at 9:59 a.m.

~~[(9)]~~ [(8)] A reception center licensee may not maintain in excess of 30% of its total annual receipts from the sale of an alcoholic product, which includes:

(a) mix for an alcoholic product; or

(b) a charge in connection with the furnishing of an alcoholic product.

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~~[(10)]~~ [(9)] A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at an event at which a minor is present unless the reception center licensee makes food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed during the event.

~~[(11)]~~ [(10)] (a) Subject to the other provisions of this Subsection ~~[(11)]~~ [(10)], a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(11)]~~ [(10)](a).

~~[(12)]~~ [(11)] (a) A reception center licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

~~[(13)]~~ [(12)] A staff person of a reception center licensee shall remain at an event at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

~~[(14)] A reception center licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure.~~

~~[(15)] Except as provided in Subsection (16), a reception center licensee may dispense an alcoholic product only if:~~

~~[(a) the alcoholic product is dispensed from an area that is:~~

~~[(i) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:~~

~~[(A) not readily visible to a patron; and~~

~~[(B) not accessible by a patron; and~~

~~[(ii) apart from an area used:~~

~~[(A) for staging; or~~

~~[(B) as a lobby or waiting area;~~

~~[(b) the reception center licensee uses an alcoholic product that is:~~

~~[(i) stored in an area described in Subsection (15)(a); or~~

~~[(ii) in an area not described in Subsection (15)(a) on the licensed premises and:~~

~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~

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container;]

~~[(B) the unopened container is taken to an area described in Subsection (15)(a) before it is opened; and]~~

~~[(C) once opened, the container is stored in an area described in Subsection (15)(a); and]~~

~~[(c) any instrument or equipment used to dispense an alcoholic product is located in an area described in Subsection (15)(a).]~~

~~[(16) A reception center licensee may dispense an alcoholic product from a mobile serving area that:]~~

~~[(a) is moved only by staff of the reception center licensee;]~~

~~[(b) is capable of being moved by only one individual; and]~~

~~[(c) is no larger than 6 feet long and 30 inches wide.]~~

~~[(17)]~~

(13) (a) Within a designated bar area, a patron who is 21 years of age or older may:

(i) be furnished an alcoholic product; and

(ii) consume an alcoholic project.

(b) Except as provided in Subsection (13)(c), within a designated bar area, a reception center licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

(c) (i) A minor may be within a designated bar area if the minor is employed by a reception center licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the reception center licensee is not open for business.

(ii) A minor may momentarily pass by or through a designated bar area without remaining or sitting at any bar seating en route to an area of a reception center licensee's premises in which the minor is permitted to be.

~~[(17)] (14) (a) A reception center licensee may not have an event on the licensed premises except pursuant to a contract between a third party host of the event and the reception center licensee under which the reception center licensee provides an alcoholic product sold,~~

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offered for sale, or furnished at an event.

(b) At an event, a reception center licensee may furnish an alcoholic product:

(i) without charge to a patron, except that the third party host of the event shall pay for an alcoholic product furnished at the event; or

(ii) with a charge to a patron at the event.

~~[(18)]~~ (15) A reception center licensee shall have culinary facilities that are:

(a) adequate to prepare a full meal; and

(b) (i) located on the licensed premises; or

(ii) under the same control as the reception center licensee.

Section ~~{4}~~ 24. Section ~~{32B-5-309}~~ 32B-6-902 (Effective ~~{07/01/12}~~ 03/01/12) is amended to read:

~~{32B-5-309}~~ 32B-6-902 (Effective ~~{07/01/12}~~ 03/01/12). ~~{Ceasing operation:~~

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

~~—— (a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and~~

~~—— (b) the closure or cessation of operation is first approved by the department.~~

~~—— (2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone:~~

~~—— (3) (a) The department may authorize a closure or cessation of operation of a retail licensee for a period not to exceed 60 days:~~

~~—— (b) The department may extend the initial period an additional 30 days upon:~~

~~—— (i) written request of the retail licensee; and~~

~~—— (ii) a showing of good cause.~~

~~—— (4) A closure or cessation of operation may not exceed a total of 90 days without commission approval.~~

~~—— (5) A notice required under this section shall include:~~

~~—— (a) the dates of closure or cessation of operation;~~

~~—— (b) the reason for the closure or cessation of operation; and~~

~~—— (c) the date on which the retail licensee will reopen or resume operation.~~

~~—— (6) Failure of a retail licensee to provide notice and to obtain department~~

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~~approval before closure or cessation of operation results in an automatic forfeiture of:~~

~~—— (a) the retail license; and~~

~~—— (b) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.~~

~~—— (7) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:~~

~~—— (a) the retail license; and~~

~~—— (b) the unused portion of the retail license fee for the remainder of the retail license year.~~

~~—— (8) This section does not apply to:~~

~~—— (a) } **Definitions.**~~

~~[(1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a licensed premises of a beer-only restaurant licensee that:]~~

~~[(i) was licensed as an on-premise beer retailer {who is not a tavern; [or]~~

~~—— (b) an airport lounge licensee[.];~~

~~—— (c) a full-service} as of August 1, 2011, and as of August 1, 2011:]~~

~~[(A) is operational;]~~

~~[(B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii); and]~~

~~[(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or]~~

~~[(ii) is a bar structure grandfathered under Section 32B-6-409.]~~

~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.]~~

~~[(2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~

Reserved

Section 25. Section 32B-6-905 (Effective 03/01/12) is amended to read:

32B-6-905 (Effective 03/01/12). Specific operational requirements for a beer-only



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### restaurant license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee

~~— (d) a limited-service~~ and staff of the beer-only restaurant licensee ~~or~~

~~— (e)~~ shall comply with this section.

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

(i) a beer-only restaurant licensee

~~— Section 5~~ ;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; and

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

[(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (12)(a).]

[(4) (3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection [(4) (3) shall list the type and amount of beer ordered or consumed.

[(5) (4) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.

[(6) (5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer, except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before 11:30 a.m. on any day.

[(7) (6) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.

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~~[(8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except in connection with an order for food prepared, sold, and furnished at the licensed premises.]~~

~~[(b)] (7) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.~~

~~[(9)] (8) A patron may not have more than two beers at a time before the patron.~~

~~[(10)] (9) A patron may consume a beer only:~~

~~(a) at:~~

~~(i) the patron's table;~~

~~(ii) a [grandfathered] bar [structure]; or~~

~~(iii) a counter; and~~

~~(b) where food is served.~~

~~[(11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.]~~

~~[(b) Notwithstanding Subsection (11)(a), at a grandfathered]~~

~~(10) (a) At a bar [structure], a patron who is 21 years of age or older may:~~

~~[(i) sit;]~~

~~[(ii)] (i) be furnished a beer; and~~

~~[(iii)] (ii) consume a beer.~~

~~[(c)] (b) Except as provided in Subsection [(11)(d)] (10)(c), at a [grandfathered] bar [structure], a beer-only restaurant licensee may not permit a minor to, and a minor may not:~~

~~(i) sit; or~~

~~(ii) consume food or beverages.~~

~~[(d)] (c) (i) A minor may be at a [grandfathered] bar [structure] if the minor is employed by a beer-only restaurant licensee:~~

~~(A) as provided in Subsection 32B-5-308(2); or~~

~~(B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.~~

~~(ii) A minor may momentarily pass by a [grandfathered] bar [structure] without remaining or sitting at the bar [structure] en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.~~

~~[(12) A beer-only restaurant licensee may dispense a beer only if:]~~

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~~[(a) the beer is dispensed from an area that is:]~~

~~[(i) a grandfathered bar structure; or]~~

~~[(ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;]~~

~~[(b) the beer-only restaurant licensee uses a beer that is:]~~

~~[(i) stored in an area described in Subsection (12)(a); or]~~

~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

~~[(A) immediately before the beer is dispensed it is in an unopened container;]~~

~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and]~~

~~[(C) once opened, the container is stored in an area described in Subsection (12)(a); and]~~

~~[(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (12)(a);]~~

Section 26. Section ~~{32B-6-203}~~32B-8-402 is amended to read:

~~{32B-6-203}~~32B-8-402. ~~{Commission's power to issue full-service restaurant license}~~**Specific operational requirements for a sublicense.**

(1) ~~{Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain}~~△ ~~person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense except that~~~~[-(a)]~~ notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsection 32B-8-401(4)~~[-and].~~

[(b) notwithstanding Section 32B-6-202 or 32B-6-302, a bar structure in a licensed premises operated under ~~a full-service restaurant~~ ~~{license from the commission in accordance with this part.~~

~~———— (2) The commission may issue a full-service restaurant license to establish full-service~~

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~~restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.~~

~~—— (3) (a) [Subject to Section 32B-1-201: (a) The commission may not issue a total number of full-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 4,925. (b) The commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206. (c) (i)] If the location, design, and construction of a hotel may require more than one full-service } sublicense or limited-service restaurant {sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:~~

~~—— [(A)] (i) the hotel has a minimum of 150 guest rooms, and~~

~~—— [(B)] (ii) the locations under } sublicense is considered a grandfathered bar structure if the resort license that includes the full-service restaurant {license are:~~

~~—— [(I)] (A) within the same hotel; and~~

~~—— [(II)] (B) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee.~~

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

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

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

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

~~—— (ii) the premises has had a full-service restaurant license at all times since the~~

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~~full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance; and~~

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

~~—— Section 6. Section **32B-6-303** is amended to read:~~

~~—— **32B-6-303. Commission's power to issue limited-service restaurant license.**~~

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

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

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

~~—— (i) spirituous liquor; or~~

~~—— (ii) a flavored malt beverage.~~

~~—— (3) (a) [ Subject to Section 32B-1-201: (a) The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 8,373. (b) The commission may issue a seasonal limited-service restaurant license in accordance with Section 32B-5-206. (c) (i)] If the location, design, and construction of a hotel may require more than one } sublicense or limited-service restaurant { sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three limited-service restaurant locations within the hotel under one limited-service restaurant license if:~~

~~—— [(A)] (i) the hotel has a minimum of 150 guest rooms; and~~

~~—— [(B)] (ii) the locations under the limited-service restaurant license are:~~

~~—— [(I)] (A) within the same hotel; and~~

~~—— [(II)] (B) on premises that are managed or operated, and owned or leased by the~~

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~~limited-service restaurant licensee.~~

~~——— [(ii)] (b) A facility other than a hotel shall have a separate limited-service restaurant license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished.~~

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

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

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

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

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

~~——— Section 7.} sublicense is issued by no later than December 31, 2010.~~

(2) Subject to Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a person operating under a sublicense applies to the resort licensee; and

(b) a requirement imposed on staff of a person operating under a sublicense applies to staff of the resort licensee.

### Section 27. Repealer.

This bill repeals:

Section ~~{32B-5-205, Conditional retail license.~~

~~——— Section 8} 32B-6-205.1, Credit for grandfathered bar structures of full-service restaurant licensee.~~

**HB0270S01 compared with HB0270**

**Section 32B-6-305.1, Credit for grandfathered bar structures for limited-service restaurant licensee.**

**Section 28. Effective date.**

**This bill takes effect on July 1, 2012.**

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**Legislative Review Note**

~~as of 1-13-12 7:04 PM~~

~~Office of Legislative Research and General Counsel}~~