

Senator John L. Valentine proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL RELATED AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act, the Open and Public Meetings Act, and the Government Records Access and Management Act, to address the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ changes the Alcoholic Beverage Control Commission to a seven member commission and makes related changes;
- ▶ addresses removal of commission members and chair;
- ▶ creates subcommittees of the commission;
- ▶ clarifies that the commission's policy authority is to be consistent with the policy established by the Legislature by statute;
- ▶ provides for appointment and termination of the director;
- ▶ addresses appointment of interim director;
- ▶ imposes terms on the length of time a director serves;
- ▶ provides for the hiring and firing of upper management only with the approval of the commission;
- ▶ creates the Alcoholic Beverage Control Advisory Board;



- 26 ▶ addresses application of Utah Procurement Code;
- 27 ▶ addresses audits;
- 28 ▶ provides for internal audits division;
- 29 ▶ addresses requirements for package agency agreements;
- 30 ▶ requires a hearing by a hearing examiner of a department recommendation to not
- 31 renew a license or to revoke a license;
- 32 ▶ modifies operational requirements for a reception center;
- 33 ▶ addresses provisions related to the transfer of retail licenses;
- 34 ▶ authorizes the director to issue or deny issuance of certain permits with the approval
- 35 of the Compliance, Licensing, and Enforcement Subcommittee, and subject to
- 36 revocation or issuance by the Commission;
- 37 ▶ addresses notification of an event to law enforcement;
- 38 ▶ requires the director to issue monthly reports to the commission of the director's
- 39 activities relative to permits;
- 40 ▶ allows certain permittees to change the location of where to store, sell, offer for
- 41 sale, furnish, or allow consumption with the approval of the director and the
- 42 Compliance, Licensing, and Enforcement Subcommittee;
- 43 ▶ ~~H~~→ [addresses] removes ~~←H~~ purposes ~~H~~→ [of] for ~~←H~~ which the commission may
- 43a hold a closed meeting; ~~H~~→ and
- 44 [~~→~~ ~~provides that certain records related to the department or commission are protected~~
- 45 ~~records; and~~] ~~←H~~
- 46 ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

32B-2-201, as last amended by Laws of Utah 2011, Chapters 308 and 334

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

32B-2-205, as last amended by Laws of Utah 2011, Chapter 334

32B-2-206, as last amended by Laws of Utah 2011, Chapter 336

57 **32B-2-207**, as enacted by Laws of Utah 2010, Chapter 276
 58 **32B-2-209**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
 59 **32B-2-302**, as enacted by Laws of Utah 2010, Chapter 276
 60 **32B-2-605**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
 61 **32B-3-204**, as enacted by Laws of Utah 2010, Chapter 276
 62 **32B-6-805**, as enacted by Laws of Utah 2011, Chapter 334
 63 **32B-8a-302 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 334
 64 **32B-8a-303 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 334
 65 **32B-9-201**, as enacted by Laws of Utah 2010, Chapter 276
 66 **32B-9-202**, as enacted by Laws of Utah 2010, Chapter 276
 67 **32B-9-204**, as last amended by Laws of Utah 2011, Chapters 307 and 334
 68 **32B-9-303**, as enacted by Laws of Utah 2010, Chapter 276
 69 **32B-9-403**, as enacted by Laws of Utah 2010, Chapter 276
 70 **32B-9-404**, as enacted by Laws of Utah 2010, Chapter 276
 71 **52-4-205**, as last amended by Laws of Utah 2011, Chapters 46 and 334

72 ~~H→ [—63G-2-305, as last amended by Laws of Utah 2011, Chapters 18, 46, 55, 80, 151, and~~
 73 ~~161] ←H~~

74 **63I-5-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

75 ENACTS:

76 **32B-2-201.5**, Utah Code Annotated 1953

77 **32B-2-302.5**, Utah Code Annotated 1953

78 **32B-2-210**, Utah Code Annotated 1953

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

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

82 **32B-2-201. Alcoholic Beverage Control Commission created.**

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

85 (2) (a) The commission is composed of [~~five~~] seven part-time commissioners
 86 appointed by the governor with the consent of the Senate.

87 (b) No more than [~~three~~] four commissioners may be of the same political party.

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

91 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
92 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no
93 more than [~~two~~] three commissioners expire in a fiscal year.

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

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

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

100 (6) (a) The governor may remove a commissioner from the commission for cause,
101 neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:

102 (i) the governor; or

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

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

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

107 (ii) the alleged grounds for the removal.

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

109 (i) attend the hearing;

110 (ii) present witnesses and other evidence; and

111 (iii) confront and cross examine witnesses.

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

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

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

117 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing
118 examiner shall issue a written recommendation to the governor in addition to complying with

119 Subsection (6)(d).

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

123 (g) The governor shall:

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

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

126 (7) A commissioner may not receive compensation or benefits for the commissioner's
127 service, but may receive per diem and travel expenses in accordance with:

128 (a) Section 63A-3-106;

129 (b) Section 63A-3-107; and

130 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
131 63A-3-107.

132 (8) (a) The governor shall annually appoint the chair of the commission. A
133 commissioner serves as chair to the commission at the pleasure of the governor. If removed as
134 chair, the commissioner continues to serve as a commissioner unless removed as a
135 commissioner under Subsection (6).

136 (b) The commission shall elect:

137 (i) another commissioner to serve as vice chair; and

138 (ii) other commission officers as the commission considers advisable.

139 (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which
140 the commissioner is elected at the pleasure of the commission.

141 (9) (a) Each commissioner has equal voting rights on a commission matter when in
142 attendance at a commission meeting.

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

144 (c) A majority vote of the quorum present at a meeting is required for the commission
145 to act.

146 (10) (a) The commission shall meet at least monthly, but may hold other meetings at
147 times and places as scheduled by:

148 (i) the commission;

149 (ii) the chair; or

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

151 (b) Notice of the time and place of a commission meeting shall be given to each
152 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
153 Meetings Act. A commission meeting is open to the public, except for a commission meeting
154 or portion of a commission meeting that is closed by the commission as authorized by Sections
155 52-4-204 and 52-4-205.

156 Section 2. Section **32B-2-201.5** is enacted to read:

157 **32B-2-201.5. Commission subcommittee -- Chair's oversight responsibilities.**

158 (1) There is created within the commission two subcommittees consisting of members
159 of the commission and known as the:

160 (a) "Compliance, Licensing, and Enforcement Subcommittee"; and

161 (b) "Operations and Procurement Subcommittee."

162 (2) A subcommittee shall have four members, including the chair of the commission.

163 The chair of the commission shall appoint the members to a subcommittee.

164 (3) The director shall consult with the chair of the commission over:

165 (a) the internal affairs of the department; and

166 (b) subject to Section 32B-2-207, hiring and firing of upper management of the
167 department.

168 (4) The commission by rule, made in accordance with Title 63G, Chapter 3, Utah
169 Administrative Rulemaking Act, shall establish the duties of the subcommittees created under
170 this section.

171 Section 3. Section **32B-2-202** is amended to read:

172 **32B-2-202. Powers and duties of the commission.**

173 (1) The commission shall:

174 (a) consistent with the policy established by the Legislature by statute, act as a general
175 policymaking body on the subject of alcoholic product control;

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

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

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

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

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

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

186 (i) a package agency;

187 (ii) a full-service restaurant license;

188 (iii) a limited-service restaurant license;

189 (iv) a club license;

190 (v) an airport lounge license;

191 (vi) an on-premise banquet license;

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

193 (viii) an on-premise beer retailer license;

194 (ix) a reception center license;

195 (x) a beer-only restaurant license;

196 (xi) subject to Subsection (4), a single event permit;

197 (xii) subject to Subsection (4), a temporary beer event permit;

198 (xiii) a special use permit;

199 (xiv) a manufacturing license;

200 (xv) a liquor warehousing license;

201 (xvi) a beer wholesaling license; and

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

203 (A) an out-of-state brewer;

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

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

206 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
207 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
208 manufacture, and distribution of an alcoholic product:

209 (i) a conditional full-service restaurant license; or

210 (ii) a conditional limited-service restaurant license;

211 (g) prescribe the duties of the department in assisting the commission in issuing a

212 package agency, license, permit, or certificate of approval under this title;

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

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

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

219 (k) (i) require the director to follow sound management principles; and

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

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

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

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

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

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

229 (i) considered expedient; and

230 (ii) approved by the governor;

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

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

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

237 (2) ~~[The]~~ Consistent with the policy established by the Legislature by statute, the power
238 of the commission to do the following is plenary, except as otherwise provided by this title, and
239 not subject to review:

240 (a) establish a state store;

241 (b) issue authority to act as a package agent or operate a package agency; and

242 (c) issue or deny a license, permit, or certificate of approval.

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

246 (4) Notwithstanding Subsections (1)(e)(xi) and (xii), the director or deputy director
247 may issue an event permit in accordance with Chapter 9, Event Permit Act.

248 Section 4. Section **32B-2-205** is amended to read:

249 **32B-2-205. Director of alcoholic beverage control.**

250 (1) (a) [~~The commission by a vote of four of the five commissioners, with the approval~~
251 ~~of the]~~ In accordance with Subsection (1)(b), the governor, [and] with the consent of the
252 Senate, shall appoint a director of alcoholic beverage control [who] to a four-year term. The
253 director may be appointed to more than one four-year term. The director is the administrative
254 head of the department.

255 (b) (i) The governor shall appoint the director from nominations made by the
256 commission.

257 (ii) The commission shall submit the nomination of three individuals to the governor
258 for appointment of the director.

259 (iii) By no later than 30 calendar days from the day on which the governor receives the
260 three nominations submitted by the commission, the governor may:

261 (A) appoint the director; or

262 (B) reject the three nominations.

263 (iv) If the governor rejects the nominations or fails to take action within the 30-day
264 period, the commission shall nominate three different individuals from which the governor may
265 appoint the director or reject the nominations until such time as the governor appoints the
266 director.

267 (v) The governor may reappoint the director without seeking nominations from the
268 commission. Reappointment of a director is subject to the consent of the Senate.

269 (c) If there is a vacancy in the position of director, during the nomination process
270 described in Subsection (1)(b), the governor may appoint an interim director for a period of up
271 to 30 calendar days. If a director is not appointed within the 30-day period, the interim director
272 may continue to serve beyond the 30-day period subject to the consent of the Senate at the next
273 scheduled time for the Senate giving consent to appointments of the governor. Except that if

274 the Senate does not act on the consent to the appointment of the interim director within 60 days
275 of the end of the initial 30-day period, the interim director may continue as the interim director.

276 ~~[(b)] (d) The director [serves at the pleasure of the commission, except that the director~~
277 ~~may only be removed from office by a vote of four commissioners:] may be terminated by:~~

278 (i) the commission by a vote of four commissioners; or

279 (ii) the governor after consultation with the commission.

280 ~~[(c)] (e) The director may not be a commissioner.~~

281 ~~[(d)] (f) The director shall:~~

282 (i) be qualified in administration;

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

284 and

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

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

288 (3) The director shall:

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

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

291 (c) fully inform the commission of the operations and administrative activities of the
292 department; and

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

294 Section 5. Section **32B-2-206** is amended to read:

295 **32B-2-206. Powers and duties of the director.**

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

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

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

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

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

- 305 (b) make internal department policies and procedures relating to:
- 306 (i) department personnel matters; and
- 307 (ii) the day-to-day operation of the department;
- 308 (3) subject to Section 32B-2-207, shall appoint or employ personnel as considered
- 309 necessary in the administration of this title, and with regard to the personnel shall:
- 310 (a) prescribe the conditions of employment;
- 311 (b) define the respective duties and powers; and
- 312 (c) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
- 313 Management Act;
- 314 (4) shall establish and secure adherence to a system of reports, controls, and
- 315 performance in matters relating to personnel, security, department property management, and
- 316 operation of:
- 317 (a) a department office;
- 318 (b) a warehouse;
- 319 (c) a state store; and
- 320 (d) a package agency;
- 321 (5) within the policies, rules, and procedures approved by the commission and
- 322 provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage, sale,
- 323 furnishing, transportation, or delivery of an alcoholic product;
- 324 (6) shall prepare for commission approval:
- 325 (a) recommendations regarding the location, establishment, relocation, and closure of a
- 326 state store or package agency;
- 327 (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or
- 328 revocation of a license, permit, or certificate of approval;
- 329 (c) an annual budget, proposed legislation, and reports as required by law and sound
- 330 business principles;
- 331 (d) plans for reorganizing divisions of the department and the functions of the
- 332 divisions;
- 333 (e) manuals containing commission and department policies, rules, and procedures;
- 334 (f) an inventory control system;
- 335 (g) any other report or recommendation requested by the commission;

336 (h) rules described in Subsection 32B-2-202(1)(o) governing the credit terms of the
337 sale of beer;

338 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered
339 dispensing system;

340 (j) rules governing the display of a list of types and brand names of liquor furnished
341 through a calibrated metered dispensing system;

342 (k) price lists issued and distributed showing the price to be paid for each class, variety,
343 or brand of liquor kept for sale at a state store, package agency, or retail licensee;

344 (l) policies or rules prescribing the books of account maintained by the department and
345 by a state store, package agency, or retail licensee; and

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

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

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

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

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

357 (10) issue event permits in accordance with Chapter 9, Event Permit Act; and

358 ~~[(10)] (11)~~ shall perform any other duty required by the commission or by law.

359 Section 6. Section **32B-2-207** is amended to read:

360 **32B-2-207. Department employees -- Requirements.**

361 (1) "Upper management" means the director, a deputy director, or other Schedule AD,
362 AR, or AS employee of the department, as defined in Section 67-19-15, except for the director
363 of internal audits and auditors hired by the director of internal audits under Section
364 32B-2-302.5.

365 ~~[(1)]~~ (2) (a) Subject to this title, including the requirements of Chapter 1, Part 3,
366 Qualifications and Background, the director may prescribe the qualifications of a department

367 employee.

368 (b) The director may hire an employee who is upper management only with the
369 approval of four commissioners voting in an open meeting.

370 (c) Except as provided in Section 32B-1-303, the executive director may dismiss an
371 employee who is upper management after consultation with the chair of the commission.

372 ~~[(2)]~~ (3) (a) A person who seeks employment with the department shall file with the
373 department an application under oath or affirmation in a form prescribed by the commission.

374 (b) Upon receiving an application, the department shall determine whether the
375 individual is:

376 (i) of good moral character; and

377 (ii) qualified for the position sought.

378 (c) The department shall select an individual for employment or advancement with the
379 department in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

380 ~~[(3)]~~ (4) The following are not considered a department employee:

381 (a) a package agent;

382 (b) a licensee;

383 (c) a staff member of a package agent; or

384 (d) staff of a licensee.

385 ~~[(4)]~~ (5) The department may not employ a minor to:

386 (a) work in:

387 (i) a state store; or

388 (ii) a department warehouse; or

389 (b) engage in an activity involving the handling of an alcoholic product.

390 Section 7. Section **32B-2-209** is amended to read:

391 **32B-2-209. Prohibited interests, relationships, and actions.**

392 (1) As used in this section:

393 (a) "Applicable department employee" means a department employee who is:

394 (i) designated as a deputy or assistant director;

395 (ii) a chief administrative officer of a division within the department;

396 (iii) a department compliance officer; or

397 (iv) an employee directly performing purchasing, licensing, or compliance functions of

398 the department.

399 (b) "Immediate family" means an individual's:

400 (i) spouse; or

401 (ii) child who is younger than 18 years of age.

402 (c) "Permit" does not include:

403 (i) an industrial or manufacturing use permit;

404 (ii) a scientific or educational use permit; or

405 (iii) a religious wine use permit.

406 (2) In addition to being subject to Title 67, Chapter 16, Utah Public Officers' and
407 Employees' Ethics Act, an individual who is a commissioner, the director, or an applicable
408 department employee may not:

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

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

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

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

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

420 (i) a person who applies for or holds a package agency, license, or permit under this
421 title; or

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

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

429 (3) An immediate family member of a commissioner, the director, or an applicable
430 department employee may not:

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

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

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

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

441 (i) a person who applies for or holds a package agency, license, or permit under this
442 title; or

443 (ii) an officer, agent, or employee of a person who applies for or holds a package
444 agency, license, or permit under this title, except that an immediate family member may accept
445 a gift from an officer, agent, or employee if the gift is equal to or less than \$50; or

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

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

453 (a) as a commissioner;

454 (b) as director of the department; or

455 (c) to a department staff position.

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

- 460 (b) After a commissioner makes a disclosure under Subsection (5)(a):
461 (i) the commission may, by motion, determine whether there is a potential violation of
462 this section;
463 (ii) if the commission determines that there is a potential violation of this section:
464 (A) the commission shall notify the governor; and
465 (B) the commissioner may not vote on any matter that would result in the potential
466 violation of this section; and
467 (iii) if the commission determines that there is not a potential violation of this section,
468 a commissioner may elect whether to vote on the issue that gives rise to the disclosure under
469 Subsection (5)(a).
470 (c) The commission shall record any declaration of a potential violation of this section
471 in the minutes of the meeting.

472 Section 8. Section **32B-2-210** is enacted to read:

473 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

- 474 (1) There is created within the department an advisory board known as the "Alcoholic
475 Beverage Control Advisory Board."
476 (2) The advisory board shall consist of 12 members as follows:
477 (a) the following voting members appointed by the commission, a representative of:
478 (i) a full-service restaurant licensee;
479 (ii) a limited-service restaurant licensee;
480 (iii) a beer-only restaurant licensee;
481 (iv) a social club licensee;
482 (v) a fraternal club licensee;
483 (vi) a dining club licensee;
484 (vii) a wholesaler licensee;
485 (viii) an on-premise banquet licensee;
486 (ix) an on-premise beer retailer licensee; and
487 (x) a reception center licensee;
488 (b) the chair of the Utah Substance Abuse Advisory Council, or the chair's designee,
489 who serves as a voting member; and
490 (c) the chair of the commission or the chair's designee from the members of the

491 commission, who shall serve as a nonvoting member.

492 (3) (a) Except as required by Subsection (3)(b), as terms of current voting members of
493 the advisory board expire, the commission shall appoint each new member or reappointed
494 member to a four-year term beginning July 1 and ending June 30.

495 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the
496 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
497 voting advisory board members are staggered so that approximately half of the advisory board
498 is appointed every two years.

499 (c) No two members of the board may be employed by the same company or nonprofit
500 organization.

501 (4) (a) When a vacancy occurs in the membership for any reason, the commission shall
502 appoint a replacement for the unexpired term.

503 (b) The commission shall terminate the term of a voting advisory board member who
504 ceases to be representative as designated by the member's original appointment.

505 (5) The advisory board shall meet no more than quarterly as called by the chair for the
506 purpose of advising the commission and the department, with discussion limited to
507 administrative rules made under this title.

508 (6) The chair of the commission or the chair's designee shall serve as the chair of the
509 advisory board and call the necessary meetings.

510 (7) (a) Six members of the board constitute a quorum of the board.

511 (b) An action of the majority when a quorum is present is the action of the board.

512 (8) The department shall provide staff support to the advisory board.

513 (9) A member may not receive compensation or benefits for the member's service, but
514 may receive per diem and travel expenses in accordance with:

515 (a) Section 63A-3-106;

516 (b) Section 63A-3-107; and

517 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
518 63A-3-107.

519 Section 9. Section **32B-2-302** is amended to read:

520 **32B-2-302. Exempt from Division of Finance -- Application of procurement --**
521 **External audits.**

522 (1) (a) The laws that govern the Division of Finance are not applicable to the
523 department in the purchase and sale of an alcoholic product.

524 ~~[(2)(a) The state auditor, or a person appointed by the state auditor, shall annually
525 audit the department's accounts.]~~

526 ~~[(b) If an audit is conducted by a person appointed by the state auditor, the person shall
527 make the audit report to the state auditor.]~~

528 ~~[(c) The state auditor shall submit a copy of an audit report to the Legislature by no
529 later than the January 1 following the close of the fiscal year for which the audit report is
530 made.]~~

531 (b) The department is exempt from Title 63G, Chapter 6, Utah Procurement Code, for
532 the purchase of an alcoholic product. The department is subject to Title 63G, Chapter 6, Utah
533 Procurement Code, for any purchase other than for an alcoholic product.

534 (2) The state auditor shall:

535 (a) select a private person to perform a financial audit of the department's accounts,
536 subject to the commission approving the private person selected to perform the financial audit;

537 (b) notify the governor of the private person selected to perform the financial audit; and

538 (c) determine the scope and focus of the financial audit in an open meeting of the
539 commission before the audit commences.

540 (3) ~~Ĥ→ [(a) Biannually]~~ Every two years ~~←Ĥ~~, beginning for fiscal year 2013-14, the state
540a auditor shall conduct an

541 audit of the department's:

542 ~~Ĥ→ [(i)]~~ (a) ~~←Ĥ~~ management operations, best practices, and efficiency; and

543 ~~Ĥ→ [(ii)]~~ (b) ~~←Ĥ~~ ethics and statutory compliance.

544 ~~Ĥ→ [(b)]~~ (4) ~~←Ĥ~~ In addition to complying with ~~Ĥ→ [Subsection (3)(a)]~~ Subsections (2)
544a and (3) ~~←Ĥ~~, the state auditor may engage in an

545 activity related to the department or commission allowed under Utah Constitution, Article VII,

546 Section 15 or Title 67, Chapter 3, Auditor.

547 ~~Ĥ→ [(4)]~~ (5) ~~←Ĥ~~ The commission shall forward an audit report issued under Subsection (2)
547a or (3) to

548 the following by no later than 30 days after the day on which the audit report is made:

549 (a) the governor;

550 (b) the Legislative Management Committee;

551 (c) the director; and

552 (d) the legislative auditor general.

553 Section 10. Section **32B-2-302.5** is enacted to read:

554 **32B-2-302.5. Internal audits.**

555 (1) In accordance with Title 63I, Chapter 5, Utah Internal Audit Act, the department
556 shall conduct various types of auditing procedures determined by the commission through an
557 internal audit division.

558 (2) (a) The commission shall appoint an internal audit director who shall serve at the
559 pleasure of the commission.

560 (b) The internal audit director shall hire auditors in the division with the approval of
561 the commission.

562 (c) The internal audit director may dismiss an auditor with the approval of the
563 commission.

564 (3) Notwithstanding Section 63I-5-301, the commission shall serve as the audit
565 committee.

566 (4) Subject to the other provisions of this section, the internal audit director shall have
567 the powers and duties described in Section 63I-5-401 or any other duty prescribed by the chair
568 of the commission. The internal audit director shall oversee and materially participate in
569 internal audits conducted under this section.

570 (5) (a) Once an internal audit is completed, the internal audit director shall provide an
571 internal audit report to the director, the chair of the commission, and the other commissioners.

572 (b) Within five business days of receipt of the internal audit, the director shall prepare a
573 written response and deliver it to the chair of the commission and the other commissioners.

574 (c) Within five business days of receipt of the director's written response under
575 Subsection (5)(b), the chair of the commission may prepare a separate response.

576 (d) Within 12 business days of the internal audit being given to the director, chair of
577 the commission, and the other commissioners under Subsection (5)(a), the chair of the
578 commission shall forward the audit and any response to:

579 (i) the governor;

580 (ii) the legislative auditor general; and

581 (iii) the Legislative Management Committee.

582 (e) Within 120 calendar days of an internal audit being completed, the commission
583 shall prepare a report to the governor describing steps taken to implement the recommendations

584 of the audit or a detailed explanation of why recommendations have not been implemented.

585 The chair of the commission shall forward the report to:

586 (i) the legislative auditor general; and

587 (ii) the Legislative Management Committee.

588 (f) The chair of the commission shall make such other reports as the governor requests.

589 Section 11. Section **32B-2-605** is amended to read:

590 **32B-2-605. Operational requirements for package agency.**

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

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

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

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

600 (iii) A package agency agreement shall provide procedures to be followed if a package
601 agent fails to pay money owed to the department including a procedure for replacing the
602 package agent or operator of the package agency.

603 (iv) A package agency agreement shall provide that the package agency is subject to
604 covert investigations for selling an alcoholic product to a minor.

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

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

608 (i) the package agent; or

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

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

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

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

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

614 (d) A package agent shall submit the name of the person operating the package agency

615 to the department for the department's approval.

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

618 (f) A package agent shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

657 (a) a minor;

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

659 (c) a known interdicted person; or

660 (d) a known habitual drunkard.

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

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

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

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

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

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

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

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

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

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

676 (ii) The department may extend the initial period an additional 30 days upon written

677 request of the package agency and upon a showing of good cause.

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

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

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

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

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

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

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

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

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

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

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

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

698 (A) on Sunday; or

699 (B) on a state or federal legal holiday.

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

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

705 (i) the package agency is located at a manufacturing facility licensed in accordance
706 with Chapter 11, Manufacturing and Related Licenses Act;

707 (ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing

708 and Related Licenses Act, holds:

709 (A) a full-service restaurant license;

710 (B) a limited-service restaurant license;

711 (C) a beer-only restaurant license; or

712 (D) dining club license;

713 (iii) the restaurant or dining club is located at the manufacturing facility;

714 (iv) the restaurant or dining club sells an alcoholic product produced at the

715 manufacturing facility;

716 (v) the manufacturing facility:

717 (A) owns the restaurant or dining club; or

718 (B) operates the restaurant or dining club;

719 (vi) the package agency only sells an alcoholic product produced at the manufacturing

720 facility; and

721 (vii) the package agency's days and hours of sale are the same as the days and hours of

722 sale at the restaurant or dining club.

723 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if

724 the package agent that holds the package agency to sell liquor at the resort does not sell liquor

725 in a manner similar to a state store.

726 (ii) The commission may by rule define what constitutes a package agency that sells

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

728 (14) (a) Except to the extent authorized by commission rule, a minor may not be

729 admitted into, or be on the premises of a package agency unless accompanied by a person who

730 is:

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

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

733 (b) A package agent or staff of a package agency that has reason to believe that a

734 person who is on the premises of a package agency is under the age of 21 and is not

735 accompanied by a person described in Subsection (14)(a) may:

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

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

738 (iii) ask the suspected minor or the person who accompanies the suspected minor for

739 proof of parental, guardianship, or spousal relationship.

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

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

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

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

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

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

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

755 (iii) subject to:

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

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

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

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

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

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

768 (a) physical facilities;

769 (b) conditions of operation;

- 770 (c) hours of operation;
- 771 (d) inventory levels;
- 772 (e) payment schedules;
- 773 (f) methods of payment;
- 774 (g) premises security; and
- 775 (h) any other matter considered appropriate by the commission.

776 Section 12. Section **32B-3-204** is amended to read:

777 **32B-3-204. Disciplinary proceeding procedure.**

778 (1) (a) Subject to Section 32B-3-202, the following may conduct an adjudicative
779 proceeding to inquire into a matter necessary and proper for the administration of this title and
780 rules adopted under this title:

- 781 (i) the commission;
- 782 (ii) a hearing examiner appointed by the commission to conduct a suspension,
783 non-renewal, or revocation hearing required by law;
- 784 (iii) the director; and
- 785 (iv) the department.

786 (b) Except as provided in this section or Section 32B-2-605, a person described in
787 Subsection (1)(a) shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an
788 adjudicative proceeding.

789 (c) Except when otherwise provided by law, an adjudicative proceeding before the
790 commission or a hearing examiner appointed by the commission shall be:

- 791 (i) video or audio recorded; and
- 792 (ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4,
793 Open and Public Meetings Act.

794 (d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding
795 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State
796 Personnel Management Act.

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

800 (2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted

801 under the authority of the commission, which is responsible for rendering a final decision and
802 order on a disciplinary matter.

803 (b) (i) The commission may appoint a necessary officer, including a hearing examiner,
804 from within or without the department, to administer the disciplinary proceeding process.

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

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

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

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

809 presented at the hearing;

810 (II) conclusions of law; and

811 (III) recommendations.

812 (iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a
813 penalty more severe than that initially sought by the department in the notice of agency action.

814 (iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served
815 upon the respective parties.

816 (v) Before final commission action, the commission shall give a respondent and the
817 department reasonable opportunity to file a written objection to a hearing examiner report.

818 (3) (a) The commission or an appointed hearing examiner shall preside over a
819 disciplinary proceeding hearing.

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

823 (c) (i) The commission or its hearing examiner as part of a disciplinary proceeding
824 hearing may:

825 (A) administer an oath or affirmation;

826 (B) take evidence;

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

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

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

830 (II) the production of a record or other evidence considered relevant to the inquiry.

831 (ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and

832 produce a record or tangible thing as required in the subpoena.

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

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

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

842 (I) appear before the issuing party; and

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

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

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

846 (d) In a case heard by the commission, the commission shall issue its final decision and
847 order in accordance with Subsection (2).

848 (4) (a) The commission shall:

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

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

851 (b) An order of the commission is final on the date the order is issued.

852 (c) The commission, after the commission renders its final decision and order, may
853 require the director to prepare, issue, and cause to be served on the parties the final written
854 order on behalf of the commission.

855 (5) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
856 the commission or a hearing examiner appointed by the commission shall proceed formally in
857 accordance with Sections 63G-4-204 through 63G-4-209 if:

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

860 (ii) the alleged violation involves:

861 (A) selling or furnishing an alcoholic product to a minor;

862 (B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct,

863 and Entertainment Act;

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

866 (D) interfering or refusing to cooperate with:

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

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

871 (E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;

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

873 (G) unlawful supply of liquor by a liquor industry member, as defined in Section
874 32B-4-702, to a person other than the department or a military installation, except to the extent
875 permitted by this title; or

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

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

878 (B) a suspension of a license, permit, or certificate of approval of more than 10 days; or

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

880 (b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall
881 proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by
882 the commission in accordance with Subsection (5)(c).

883 (c) The commission shall make rules to provide a procedure to implement this
884 Subsection (5).

885 (6) (a) If the department recommends nonrenewal of a license, the department shall
886 notify the licensee of the recommendation at least 15 days before the commission takes action
887 on the nonrenewal.

888 (b) Notwithstanding Subsection (2), the commission shall appoint a hearing examiner
889 to conduct an adjudicative hearing in accordance with this section if the licensee files a request
890 for a hearing within 10 days of receipt of the notice under Subsection (6)(a).

891 Section 13. Section **32B-6-805** is amended to read:

892 **32B-6-805. Specific operational requirements for a reception center license.**

893 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

894 Requirements, a reception center licensee and staff of the reception center licensee shall
895 comply with this section.

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

898 (i) a reception center licensee;

899 (ii) individual staff of a reception center licensee; or

900 (iii) both a reception center licensee and staff of the reception center licensee.

901 (2) In addition to complying with Section 32B-5-303, a reception center licensee shall
902 store an alcoholic product in a storage area described in Subsection (15)(a).

903 (3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall
904 provide the following with advance notice of a scheduled event in accordance with rules made
905 by the commission:

906 (i) the department; and

907 (ii) the local law enforcement agency responsible for the enforcement of this title in the
908 jurisdiction where the reception center is located.

909 (b) Any of the following may conduct a random inspection of an event:

910 (i) an authorized representative of the commission or the department; or

911 (ii) a law enforcement officer.

912 (4) (a) Except as otherwise provided in this title, a reception center licensee may sell,
913 offer for sale, or furnish an alcoholic product at an event only for consumption at the reception
914 center's licensed premises.

915 (b) A host of an event, a patron, or a person other than the reception center licensee or
916 staff of the reception center licensee, may not remove an alcoholic product from the reception
917 center's licensed premises.

918 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an
919 alcoholic product into or onto, or remove an alcoholic product from, the reception center.

920 (5) (a) A reception center licensee may not leave an unsold alcoholic product at an
921 event following the conclusion of the event.

922 (b) At the conclusion of an event, a reception center licensee shall:

923 (i) destroy an opened and unused alcoholic product that is not saleable, under

924 conditions established by the department; and

- 925 (ii) return to the reception center licensee's approved locked storage area any:
- 926 (A) opened and unused alcoholic product that is saleable; and
- 927 (B) unopened container of an alcoholic product.
- 928 (c) Except as provided in Subsection (5)(b) with regard to an open or sealed container
- 929 of an alcoholic product not sold or consumed at an event, a reception center licensee:
- 930 (i) shall store the alcoholic product in accordance with Subsection (2); and
- 931 (ii) may use the alcoholic product at more than one event.
- 932 (6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a
- 933 minor in connection with an event at the reception center at which food is not made available.
- 934 (7) A person's willingness to serve an alcoholic product may not be made a condition
- 935 of employment as a server with a reception center licensee.
- 936 (8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
- 937 product at the licensed premises on any day during the period that:
- 938 (a) begins at 1 a.m.; and
- 939 (b) ends at 9:59 a.m.
- 940 (9) (a) A reception center licensee may not maintain in excess of 30% of its total
- 941 annual receipts from the sale of an alcoholic product, which includes:
- 942 [~~(a)~~] (i) mix for an alcoholic product; or
- 943 [~~(b)~~] (ii) a charge in connection with the furnishing of an alcoholic product.
- 944 (b) A reception center licensee shall report the information necessary to show
- 945 compliance with this Subsection (9) to the department on ~~§~~→ [a quarterly] an annual ←~~§~~ basis.
- 946 (10) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
- 947 product at an event at which a minor is present unless the reception center licensee makes food
- 948 available at all times when an alcoholic product is sold, offered for sale, furnished, or
- 949 consumed during the event.
- 950 (11) (a) Subject to the other provisions of this Subsection (11), a patron may not have
- 951 more than two alcoholic products of any kind at a time before the patron.
- 952 (b) An individual portion of wine is considered to be one alcoholic product under
- 953 Subsection (11)(a).
- 954 (12) (a) A reception center licensee shall supervise and direct a person involved in the
- 955 sale, offer for sale, or furnishing of an alcoholic product.

956 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
957 shall complete an alcohol training and education seminar.

958 (13) A staff person of a reception center licensee shall remain at an event at all times
959 when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

960 (14) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
961 product to a patron, and a patron may not consume an alcoholic product at a bar structure.

962 (15) Except as provided in Subsection (16), a reception center licensee may dispense
963 an alcoholic product only if:

964 (a) the alcoholic product is dispensed from an area that is:

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

968 (A) not readily visible to a patron; and

969 (B) not accessible by a patron; and

970 (ii) apart from an area used:

971 (A) for staging; or

972 (B) as a lobby or waiting area;

973 (b) the reception center licensee uses an alcoholic product that is:

974 (i) stored in an area described in Subsection (15)(a); or

975 (ii) in an area not described in Subsection (15)(a) on the licensed premises and:

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

978 (B) the unopened container is taken to an area described in Subsection (15)(a) before it
979 is opened; and

980 (C) once opened, the container is stored in an area described in Subsection (15)(a); and

981 (c) any instrument or equipment used to dispense an alcoholic product is located in an
982 area described in Subsection (15)(a).

983 (16) A reception center licensee may dispense an alcoholic product from a mobile
984 serving area that:

985 (a) is moved only by staff of the reception center licensee;

986 (b) is capable of being moved by only one individual; and

987 (c) is no larger than 6 feet long and 30 inches wide.

988 (17) (a) A reception center licensee may not have an event on the licensed premises
989 except pursuant to a contract between a third party host of the event and the reception center
990 licensee under which the reception center licensee provides an alcoholic product sold, offered
991 for sale, or furnished at an event.

992 (b) At an event, a reception center licensee may furnish an alcoholic product:

993 (i) without charge to a patron, except that the third party host of the event shall pay for
994 an alcoholic product furnished at the event; or

995 (ii) with a charge to a patron at the event.

996 (c) The commission may by rule define what constitutes a "third-party host" for
997 purposes of this Subsection (17) so that a reception center licensee and the third-party host are
998 not ~~§→ [affiliated with;]~~ ←§ owned by ~~§→ [;]~~ ←§ or operated by the same persons ~~§→ [;]~~ ,
998a except that the rule shall permit a reception center licensee to host an event for an immediate
998b family member of the reception center licensee. ←§

999 (18) A reception center licensee shall have culinary facilities that are:

1000 (a) adequate to prepare a full meal; and

1001 (b) (i) located on the licensed premises; or

1002 (ii) under the same control as the reception center licensee.

1003 (19) ~~§→ [A]~~ (a) Except as provided in Subsection (19)(b), a ←§ reception center licensee
1003a may not operate an event:

1004 ~~§→ [(a)]~~ (i) ←§ that is open to the general public; and

1005 ~~§→ [(b)]~~ (ii) ←§ at which an alcoholic product is sold or offered for sale.

1005a ~~§→~~ (b) A reception center licensee may operate an event described in Subsection (19)(a) if the
1005b event is hosted:

1005c (i) at the reception center no more frequently than once a calendar year; and

1005d (ii) by a nonprofit organization that is organized and qualified under Section 501(c), Internal
1005e Revenue Code. ←§

1006 Section 14. Section **32B-8a-302 (Effective 07/01/12)** is amended to read:

1007 **32B-8a-302 (Effective 07/01/12). Application -- Approval process.**

1008 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
1009 file a transfer application with the department that includes:

1010 (a) an application in the form provided by the department;

1011 (b) a statement as to whether the consideration, if any, to be paid to the transferor

1012 includes payment for any or all of the following:

- 1013 (i) inventory;
- 1014 (ii) fixtures; and
- 1015 (iii) transfer of the retail license;
- 1016 (c) a copy of the notice of intended transfer; and
- 1017 (d) (i) an application fee of \$300; and

1018 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

1019 (2) (a) (i) Before the commission may approve the transfer of a retail license, the
1020 department shall conduct an investigation and may hold public hearings to gather information
1021 and make recommendations to the commission as to whether the transfer of the retail license
1022 should be approved.

1023 (ii) The department shall forward the information and recommendations described in
1024 this Subsection (2)(a) to the commission to aid in the commission's determination.

1025 (b) Before approving a transfer, the commission shall:

1026 (i) determine that the transferee filed a complete application;

1027 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
1028 transferred at the premises to which the retail license would be transferred;

1029 (iii) determine that the transferee is not delinquent in the payment of an amount
1030 described in Subsection 32B-8a-201(3);

1031 (iv) determine that the transferee is not disqualified under Section 32B-1-304;

1032 (v) consider the locality within which the proposed licensed premises is located,
1033 including the factors listed in Section [~~32B-5-206~~] 32B-5-203 for the issuance of a retail
1034 license;

1035 (vi) consider the transferee's ability to manage and operate the retail license to be
1036 transferred, including the factors listed in Section [~~32B-5-202~~] 32B-5-203 for the issuance of a
1037 retail license;

1038 (vii) consider the nature or type of retail licensee operation of the transferee, including
1039 the factors listed in Section [~~32B-5-202~~] 32B-5-203 for the issuance of a retail license;

1040 (viii) if the transfer involves consideration, determine that the transferee and transferor
1041 have complied with Part 4, Protection of Creditors; and

1042 (ix) consider any other factor the commission considers necessary.

1043 (3) (a) Except as provided in Subsection (3)(b), the commission may not approve the
1044 transfer of a retail license to premises that do not meet the proximity requirements of Section
1045 32B-1-202.

1046 (b) If after a transfer of a retail license the transferee operates the same type of retail
1047 license at the same location as did the transferor, the commission may waive or vary the
1048 proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the

1049 transfer under the same circumstances that the commission may waive or vary the proximity
1050 requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a
1051 retail license.

1052 Section 15. Section **32B-8a-303 (Effective 07/01/12)** is amended to read:

1053 **32B-8a-303 (Effective 07/01/12). Transfer fees.**

1054 (1) Except as otherwise provided in this section, the department shall charge the
1055 following transfer fees:

1056 (a) for a transfer of a retail license from a retail licensee to another person, the transfer
1057 fee equals the initial license fee amount specified in the relevant part under Chapter 6, Specific
1058 Retail License Act, for the type of retail license that is being transferred;

1059 (b) for the transfer of a retail license from one premises to another premises of the
1060 same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant
1061 part under Chapter 6, Specific Retail License Act, for the type of retail license that is being
1062 transferred;

1063 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section
1064 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant part under
1065 Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;

1066 (d) for a transfer of a retail license to include the parent or adult child of a retail
1067 licensee, when no consideration is given for the transfer, the transfer fee is one-half of the
1068 amount described in Subsection (1)(a); and

1069 (e) for one of the following transfers, the transfer fee is one-half of the amount
1070 described in Subsection (1)(a):

1071 (i) a retail license of one spouse to the other spouse when the transfer application is
1072 made before the entry of a final decree of divorce;

1073 (ii) a retail license of a deceased retail licensee to:

1074 (A) the one or more surviving partners of the deceased retail licensee;

1075 (B) the executor, administrator, or conservator of the estate of the deceased retail
1076 licensee; or

1077 (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee
1078 leaves no estate to be administered;

1079 (iii) a retail license of [~~a minor ward,~~] an incompetent person[;] or conservatee by or to

1080 the conservator or guardian for the [minor ward,] incompetent person[;] or conservatee who is
1081 the retail licensee;

1082 (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt
1083 estate of the retail licensee;

1084 (v) a retail license of a person for whose estate a receiver is appointed may be
1085 transferred by or to a receiver of the estate of the retail licensee;

1086 (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for
1087 the benefit of creditors of a licensee with the consent of the assignor;

1088 (vii) a retail license transferred to a revocable living trust if the retail licensee is the
1089 trustee of the revocable living trust;

1090 (viii) a retail license transferred between partners when no new partner is being
1091 licensed;

1092 (ix) a retail license transferred between corporations whose outstanding shares of stock
1093 are owned by the same individuals;

1094 (x) upon compliance with Section 32B-8a-202, a retail license to a corporation whose
1095 entire stock is owned by:

1096 (A) the transferor; or

1097 (B) the spouse of the transferor;

1098 (xi) upon compliance with Section 32B-8a-202, a retail license to a limited liability
1099 company whose entire membership consists of:

1100 (A) the transferor; or

1101 (B) the spouse of the transferor; or

1102 (xii) a retail license transferred from a corporation to a person who owns, or whose
1103 spouse owns, the entire stock of the corporation.

1104 (2) If there are multiple and simultaneous transfers of retail licenses under Section
1105 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the retail
1106 licenses being transferred.

1107 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under
1108 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)[~~(xiii)~~](xii)
1109 if the subsequent transfer is of 51% of the stock in a corporation to which a retail license is
1110 transferred by a retail licensee or the spouse of a retail licensee.

1111 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's
1112 adult child or adult grandchild, the transfer fee is one-half of the amount described in
1113 Subsection (1)(a).

1114 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.
1115 Section 16. Section **32B-9-201** is amended to read:

1116 **32B-9-201. Application requirements for event permit.**

1117 (1) To obtain an event permit, a person shall submit to the department:

1118 (a) a written application in a form that the department prescribes;

1119 (b) an event permit fee:

1120 (i) in the amount specified in the relevant part under this chapter for the type of event
1121 permit for which the person is applying; and

1122 (ii) that is refundable if an event permit is not issued;

1123 (c) written consent of the local authority;

1124 (d) a bond as specified by Section 32B-9-203;

1125 (e) the times, dates, location, estimated attendance, nature, and purpose of the event;

1126 (f) a description or floor plan designating:

1127 (i) the area in which the person proposes that an alcoholic product be stored;

1128 (ii) the site from which the person proposes that an alcoholic product be sold, offered
1129 for sale, or furnished; and

1130 (iii) the area in which the person proposes that an alcoholic product be allowed to be
1131 consumed;

1132 (g) a signed consent form stating that the event permittee will permit any authorized
1133 representative of the commission, department, or any law enforcement officer to have
1134 unrestricted right to enter the premises during the event;

1135 (h) if the person is an entity, proper verification evidencing that a person who signs the
1136 application is authorized to sign on behalf of the entity; and

1137 (i) any other information as the commission or department may require.

1138 (2) An entity applying for a permit need not meet the requirements of Subsections
1139 (1)(b), (c), and (d) if the entity is:

1140 (a) a state agency; or

1141 (b) a political subdivision of the state.

1142 (3) The ~~[commission]~~ director may not issue an event permit to a person who is
1143 disqualified under Section 32B-1-304.

1144 (4) (a) The proximity requirements of Section 32B-1-202 do not apply to an event
1145 permit.

1146 (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the director, the
1147 Compliance, Licensing, and Enforcement Subcommittee, or the commission from considering
1148 the proximity of an educational, religious, or recreational facility, or any other relevant factor in
1149 deciding whether to issue an event permit.

1150 Section 17. Section **32B-9-202** is amended to read:

1151 **32B-9-202. Duties before issuing event permit.**

1152 (1) (a) Before the ~~[commission]~~ director may issue an event permit, the department
1153 shall conduct an investigation and may hold public hearings to gather information and make
1154 recommendations to the ~~[commission]~~ director as to whether the ~~[commission]~~ director should
1155 issue an event permit.

1156 (b) The department shall forward the information and recommendations described in
1157 Subsection (1)(a) to the ~~[commission]~~ director and the Compliance, Licensing, and
1158 Enforcement Subcommittee to aid in the ~~[commission's]~~ determination.

1159 (2) Before issuing an event permit, the ~~[commission]~~ director shall:

1160 (a) determine that the person filed a complete application and is in compliance with:

1161 (i) Section 32B-9-201; and

1162 (ii) the relevant part under this chapter for the type of event permit for which the
1163 person is applying;

1164 (b) determine that the person is not disqualified under Section 32B-1-304;

1165 (c) consider the purpose of the organization or its local lodge, chapter, or other local
1166 unit;

1167 (d) consider the times, dates, location, estimated attendance, nature, and purpose of the
1168 event;

1169 (e) to minimize the risk of minors being sold or furnished alcohol or adults being
1170 overserved alcohol at the event, assess the adequacy of control measures for:

1171 (i) a large-scale public event when the estimated attendance is in excess of 1,000
1172 people; or

1173 (ii) an outdoor public event; ~~and~~

1174 (f) obtain the approval of the Compliance, Licensing, and Enforcement Subcommittee

1175 before issuing an event permit;

1176 (g) notify each commissioner at least three business days before the director issues the

1177 event permit in accordance with Subsection (3); and

1178 ~~(f)~~ (h) consider any other factor the [commission] director considers necessary.

1179 (3) (a) The director shall inform each commissioner of the director's preliminary

1180 decision to issue or deny the issuance of an event permit three business days before the

1181 decision is to be final.

1182 (b) The preliminary decision becomes a final decision of the director:

1183 (i) unless within three business days of receipt of the notice at least three of the

1184 commissioners request a meeting to discuss whether the event permit should be issued; or

1185 (ii) the director modifies or revokes the preliminary decision to issue or deny issuance

1186 of the event permit.

1187 (c) If three or more of the commissioners request a meeting, the applicant for the event

1188 permit shall be notified and the commission:

1189 (i) shall hold a meeting on the application for an event permit no later than the next

1190 regularly scheduled meeting of the commission; and

1191 (ii) may issue or deny issuance of the event permit if the applicant meets the

1192 requirements of this chapter.

1193 (d) Notwithstanding the other provisions of this Subsection (3), the director may at any

1194 time refer an application for an event permit directly to the commission for a determination as

1195 to whether an event permit should be issued or denied.

1196 (e) For purposes of this title, an event permit issued by the commission is to be treated

1197 the same as an event permit issued by the director.

1198 (f) If the commission finds that an event permit was improperly issued or that the

1199 permittee has violated this chapter, the commission may take any action permitted under this

1200 title.

1201 ~~(3)~~ (4) Once the [commission] director issues an event permit, the department shall

1202 send a copy of the approved application and the event permit by written or electronic means to

1203 the state and local law enforcement authorities ~~before the scheduled event~~ at least three days

1204 before the event.

1205 (5) The director shall provide the commission a monthly report of the actions taken by
1206 the director under this part.

1207 (6) If authorized by the director, the deputy director may act on behalf of the director
1208 for purposes of issuing an event permit under this chapter.

1209 Section 18. Section **32B-9-204** is amended to read:

1210 **32B-9-204. General operational requirements for an event permit.**

1211 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
1212 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
1213 with this title and rules of the commission.

1214 (b) Failure to comply as provided in Subsection (1)(a):

1215 (i) may result in:

1216 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
1217 Enforcement Act, against:

1218 (I) an event permittee;

1219 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
1220 product at the event; or

1221 (III) any combination of the persons listed in this Subsection (1)(b);

1222 (B) immediate revocation of the event permit;

1223 (C) forfeiture of a bond; or

1224 (D) immediate seizure of an alcoholic product present at the event; and

1225 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
1226 event permit for a period of three years from the date of revocation of the event permit.

1227 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
1228 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

1229 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
1230 the specific type of special use permit held by the special use permittee, the relevant part
1231 governs.

1232 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
1233 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
1234 relevant part under this chapter for the type of event permit that is held by the event permittee.

1235 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
1236 event permit held by an event permittee refers to "event permittee," a person involved in the
1237 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
1238 event permit is issued is subject to the same requirement or prohibition.

1239 (3) An event permittee shall display a copy of the event permit in a prominent place in
1240 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

1241 (4) An event permittee may not on the premises of the event:

1242 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
1243 Chapter 10, Part 11, Gambling;

1244 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1245 Part 11, Gambling; or

1246 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1247 the risking of something of value for a return or for an outcome when the return or outcome is
1248 based upon an element of chance, excluding the playing of an amusement device that confers
1249 only an immediate and unrecorded right of replay not exchangeable for value.

1250 (5) An event permittee may not knowingly allow a person at an event to, in violation of
1251 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
1252 Paraphernalia Act:

1253 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1254 58-37-2; or

1255 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1256 Section 58-37a-3.

1257 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
1258 purchases from:

1259 (a) a beer wholesaler licensee;

1260 (b) a beer retailer; or

1261 (c) a small brewer.

1262 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
1263 consumption of an alcoholic product purchased for an event in a location other than that
1264 described in the application and designated on the event permit unless the event permittee first
1265 applies for and receives approval from the ~~[commission]~~ director, with the approval of the

1266 Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

1267 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
1268 furnish beer for on-premise consumption:

1269 (i) in an open original container; and

1270 (ii) in a container on draft.

1271 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
1272 Subsection (8)(a):

1273 (i) in a size of container that exceeds two liters; or

1274 (ii) to an individual patron in a size of container that exceeds one liter.

1275 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
1276 than the cost of the alcoholic product to the event permittee.

1277 (b) An event permittee may not sell an alcoholic product at a discount price on any date
1278 or at any time.

1279 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that
1280 encourages over consumption or intoxication.

1281 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or
1282 reduced price for only certain hours of the day of an event.

1283 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
1284 product at the price of a single alcoholic product.

1285 (f) An event permittee, or a person operating, selling, offering, or furnishing an
1286 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
1287 unlimited number of alcoholic products during a set period for a fixed price, unless:

1288 (i) the alcoholic product is served to a patron at a seated event;

1289 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
1290 furnished; and

1291 (iii) no person advertises that at the event a person may be sold or furnished an
1292 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

1293 (g) An event permittee may not engage in a public promotion involving or offering a
1294 free alcoholic product to the general public.

1295 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

1296 (a) a minor;

1297 (b) a person actually, apparently, or obviously intoxicated;

1298 (c) a known interdicted person; or

1299 (d) a known habitual drunkard.

1300 (11) (a) An alcoholic product is considered under the control of the event permittee

1301 during an event.

1302 (b) A patron at an event may not bring an alcoholic product onto the premises of the

1303 event.

1304 (12) An event permittee may not permit a patron to carry from the premises an open

1305 container that:

1306 (a) is used primarily for drinking purposes; and

1307 (b) contains an alcoholic product.

1308 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at

1309 an event is considered under the supervision and direction of the event permittee.

1310 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at

1311 an event may not, while on duty:

1312 (i) consume an alcoholic product; or

1313 (ii) be intoxicated.

1314 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an

1315 event.

1316 (15) The location specified in an event permit may not be changed without prior

1317 written approval of the commission.

1318 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or

1319 attempt in any way to dispose of the event permit to another person whether for monetary gain

1320 or not.

1321 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the

1322 consumption of an alcoholic product during a period that:

1323 (i) begins at 1 a.m.; and

1324 (ii) ends at 9:59 a.m.

1325 (b) This Subsection (17) does not preclude a local authority from being more restrictive

1326 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic

1327 product at an event.

1328 (18) A patron may have no more than one alcoholic product of any kind at a time
1329 before the patron.

1330 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters
1331 that consists of text in the following order:

1332 (i) a header that reads: "WARNING";

1333 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1334 can cause birth defects and permanent brain damage for the child.";

1335 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1336 [insert most current toll-free number] with questions or for more information.";

1337 (iv) a header that reads: "WARNING"; and

1338 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1339 serious crime that is prosecuted aggressively in Utah."

1340 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
1341 font style than the text described in Subsections (19)(a)(iv) and (v).

1342 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
1343 same font size.

1344 (c) The Department of Health shall work with the commission and department to
1345 facilitate consistency in the format of a sign required under this section.

1346 Section 19. Section **32B-9-303** is amended to read:

1347 **32B-9-303. Director's power to issue single event permit.**

1348 (1) Before a person may sell, offer for sale, or furnish liquor at retail for on-premise
1349 consumption at an event, the person shall first obtain a single event permit from the
1350 [~~commission~~] director in accordance with this part.

1351 (2) (a) [~~The commission~~] Subject to Subsection (5), the director may issue a single
1352 event permit to any of the following that is conducting a convention, civic, or community
1353 enterprise, a bona fide:

1354 (i) partnership;

1355 (ii) corporation;

1356 (iii) limited liability company;

1357 (iv) religious organization;

1358 (v) political organization;

1359 (vi) incorporated association;
1360 (vii) recognized subordinate lodge, chapter, or other local unit of an entity described in
1361 this Subsection (2)(a);

1362 (viii) state agency; or
1363 (ix) political subdivision of the state.

1364 (b) The [~~commission~~] director may not issue a single event permit to an entity that has
1365 not been in existence as a bona fide entity for at least one year before the day on which the
1366 entity applies for a single event permit.

1367 (3) (a) A single event permit may authorize:

1368 (i) the storage, sale, offering for sale, furnishing, and consumption of liquor at an event
1369 at which the storage, sale, offering for sale, furnishing, or consumption of liquor is otherwise
1370 prohibited by this title under either:

1371 (A) a 120 hour single event permit; or

1372 (B) a 72 hour single event permit; and

1373 (ii) the storage, sale, offer for sale, furnishing, and consumption of beer at the same
1374 event for the period that the storage, sale, offer for sale, furnishing, or consumption of liquor is
1375 authorized under Subsection (3)(a)(i) for the single event permit.

1376 (b) The single event permit shall state in writing whether it is:

1377 (i) a 120 hour single event permit; or

1378 (ii) a 72 hour single event permit.

1379 (4) The [~~commission~~] director may not issue more than:

1380 (a) four single event permits in any one calendar year to the same person listed in
1381 Subsection (2) if one or more of the single event permits is a 120 hour single event permit; or

1382 (b) 12 single event permits in any one calendar year to the same person listed in
1383 Subsection (2) if each of the single event permits issued to that person is a 72 hour single event
1384 permit.

1385 (5) Before the director issues or denies the issuance of a single event permit under this
1386 section, the director shall comply with Section 32B-9-202.

1387 Section 20. Section **32B-9-403** is amended to read:

1388 **32B-9-403. Director's power to issue temporary beer event permit.**

1389 (1) Before a person may sell, offer for sale, or furnish beer at retail for on-premise

1390 consumption at an event, the person shall obtain in accordance with this part:

1391 (a) a single event permit; or

1392 (b) (i) a temporary beer event permit; and

1393 (ii) (A) a beer permit issued by the local authority as provided in Section 32B-9-404; or

1394 (B) written consent of the local authority to sell beer at retail for on-premise

1395 consumption at the event.

1396 (2) (a) ~~[The commission]~~ Subject to Subsection (4), the director may issue a temporary

1397 beer event permit to allow the sale, offering for sale, or furnishing of beer for on-premise

1398 consumption only at an event that does not last longer than 30 days.

1399 (b) A temporary beer event permit authorizes, for a period not to exceed 30 days, the

1400 storage, sale, offer for sale, furnishing, and consumption of beer at an event.

1401 (c) If a person obtains a temporary beer event permit for an event that lasts no longer

1402 than 30 days, an on-premise beer retailer license is not required for the sale of beer at the event.

1403 (3) (a) The ~~[commission]~~ director may not issue a temporary beer event permit to a

1404 person if the aggregate of the days that the person is authorized to store, sell, offer for sale, or

1405 furnish an alcoholic product under a temporary beer event permit will exceed a total of 90 days

1406 in any one calendar year.

1407 (b) The ~~[commission]~~ director may not issue, and a person may not obtain, a temporary

1408 beer event permit to avoid or attempt to avoid the requirement to be licensed under Chapter 6,

1409 Part 7, On-premise Beer Retailer License.

1410 (4) Before the director issues or denies the issuance of a temporary beer event permit

1411 under this section, the director shall comply with Section 32B-9-202.

1412 Section 21. Section **32B-9-404** is amended to read:

1413 **32B-9-404. Local authority's power to issue temporary beer event permit.**

1414 (1) A local authority may issue, suspend, and revoke a temporary permit to sell, offer

1415 for sale, or furnish beer for on-premise consumption at an event, except that the local authority

1416 may not issue a temporary permit if the event lasts longer than 30 days.

1417 (2) Suspension or revocation of a temporary beer event permit issued ~~[by the~~

1418 ~~commission]~~ under Section 32B-9-403 or a temporary permit issued by a local authority under

1419 this section prohibits the temporary beer event permittee who has a permit suspended or

1420 revoked by either the commission or local authority from continuing to operate under the other

1421 state or local permit.

1422 Section 22. Section **52-4-205** is amended to read:

1423 **52-4-205. Purposes of closed meetings.**

1424 (1) A closed meeting described under Section 52-4-204 may only be held for:

1425 (a) discussion of the character, professional competence, or physical or mental health
1426 of an individual;

1427 (b) strategy sessions to discuss collective bargaining;

1428 (c) strategy sessions to discuss pending or reasonably imminent litigation;

1429 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
1430 including any form of a water right or water shares, if public discussion of the transaction
1431 would:

1432 (i) disclose the appraisal or estimated value of the property under consideration; or

1433 (ii) prevent the public body from completing the transaction on the best possible terms;

1434 (e) strategy sessions to discuss the sale of real property, including any form of a water
1435 right or water shares, if:

1436 (i) public discussion of the transaction would:

1437 (A) disclose the appraisal or estimated value of the property under consideration; or

1438 (B) prevent the public body from completing the transaction on the best possible terms;

1439 (ii) the public body previously gave public notice that the property would be offered for
1440 sale; and

1441 (iii) the terms of the sale are publicly disclosed before the public body approves the
1442 sale;

1443 (f) discussion regarding deployment of security personnel, devices, or systems;

1444 (g) investigative proceedings regarding allegations of criminal misconduct;

1445 (h) as relates to the Independent Legislative Ethics Commission, conducting business
1446 relating to the receipt or review of ethics complaints;

1447 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
1448 Subsection 52-4-204(1)(a)(iii)(B);

1449 (j) as relates to a county legislative body, discussing commercial information as
1450 defined in Section 59-1-404;

1451 ~~H→ [(k) as relates to the Alcoholic Beverage Control Commission] ←H~~ [issuing a retail
1451a license

1452 under Title 32B, Alcoholic Beverage Control Act, after receiving public input in a public
 1453 meeting in support or opposition to the commission issuing the retail license, discussing one or
 1454 more of the following factors] ~~↔~~ **↔** [~~discussing in a closed meeting:~~] ~~↔~~

1455 [(i) a factor the commission is required to consider under Section 32B-5-203 or that is
 1456 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail
 1457 license at issue;]

1458 [(ii) the availability of a retail license under a quota;]

1459 [(iii) the length of time the applicant has waited for a retail license;]

1460 [(iv) an opening date for the applicant;]

1461 [(v) whether the applicant is a seasonal business;]

1462 [(vi) whether the location of the applicant has been previously licensed or is a new
 1463 location;]

1464 [(vii) whether the application involves a change of ownership of an existing location;]

1465 [(viii) whether the applicant holds other alcohol licenses at any location;]

1466 [(ix) whether the applicant has a violation history or a pending violation;]

1467 [(x) projected alcohol sales for the applicant as it relates to the extent to which the
 1468 retail license will be used;]

1469 [(xi) whether the applicant is a small or entrepreneurial business that would benefit the
 1470 community in which it would be located;]

1471 [(xii) the nature of entertainment the applicant proposes; or]

1472 [(xiii) public input in support or opposition to granting the retail license;]

1473 ~~↔~~ **↔** [(i) commercial information or financial information obtained from a person if
 1474 disclosure of the information could reasonably be expected to result in unfair competitive
 1475 injury to the person submitting the information or would impair the ability of the Alcoholic
 1476 Beverage Control Commission from obtaining necessary information in the future; and
 1477 — (ii) an audit report and the Alcoholic Beverage Control Commission's response to the
 1478 audit report until the audit report is made available under Subsection 32B-2-302(4) or
 1479 32B-2-302.5(5)(d);]

1480 [(H) **(k)** ~~↔~~ **↔** as relates to the Utah Higher Education Assistance Authority and its appointed
 1481 board of directors, discussing fiduciary or commercial information as defined in Section
 1482 53B-12-102; or

1483 ~~H~~→ [(m)] (l) ←~~H~~ a purpose for which a meeting is required to be closed under
 1484 Subsection (2).

1484 (2) The following meetings shall be closed:

1485 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
 1486 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
 1487 described in Subsections 62A-16-301(2) and (4); and

1488 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

1489 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
 1490 responses to the report described in Subsections 62A-16-301(2) and (4); or

1491 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5).

1492 (3) A public body may not interview a person applying to fill an elected position in a
 1493 closed meeting.

1494 ~~H~~→ [Section 23. Section 63G-2-305 is amended to read:

1495 ~~63G-2-305. Protected records.~~

1496 ~~The following records are protected if properly classified by a governmental entity:~~

1497 ~~(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret~~
 1498 ~~has provided the governmental entity with the information specified in Section 63G-2-309;~~

1499 ~~(2) commercial information or nonindividual financial information obtained from a~~
 1500 ~~person if:~~

1501 ~~(a) disclosure of the information could reasonably be expected to result in unfair~~
 1502 ~~competitive injury to the person submitting the information or would impair the ability of the~~
 1503 ~~governmental entity to obtain necessary information in the future;~~

1504 ~~(b) the person submitting the information has a greater interest in prohibiting access~~
 1505 ~~than the public in obtaining access; and~~

1506 ~~(c) the person submitting the information has provided the governmental entity with~~
 1507 ~~the information specified in Section 63G-2-309;~~

1508 ~~(3) commercial or financial information acquired or prepared by a governmental entity~~
 1509 ~~to the extent that disclosure would lead to financial speculations in currencies, securities, or~~
 1510 ~~commodities that will interfere with a planned transaction by the governmental entity or cause~~
 1511 ~~substantial financial injury to the governmental entity or state economy;~~

1512 ~~(4) records the disclosure of which could cause commercial injury to, or confer a~~
 1513 ~~competitive advantage upon a potential or actual competitor of, a commercial project entity as ←~~H~~~~

1514 ~~H→ defined in Subsection 11-13-103(4);~~
 1515 ~~—— (5) test questions and answers to be used in future license, certification, registration,~~
 1516 ~~employment, or academic examinations;~~
 1517 ~~—— (6) records the disclosure of which would impair governmental procurement~~
 1518 ~~proceedings or give an unfair advantage to any person proposing to enter into a contract or~~
 1519 ~~agreement with a governmental entity, except, subject to Subsections (1) and (2), that this~~
 1520 ~~Subsection (6) does not restrict the right of a person to have access to, once the contract or~~
 1521 ~~grant has been awarded, a bid, proposal, or application submitted to or by a governmental~~
 1522 ~~entity in response to:~~
 1523 ~~—— (a) a request for bids;~~
 1524 ~~—— (b) a request for proposals;~~
 1525 ~~—— (c) a grant; or~~
 1526 ~~—— (d) other similar document;~~
 1527 ~~—— (7) records that would identify real property or the appraisal or estimated value of real~~
 1528 ~~or personal property, including intellectual property, under consideration for public acquisition~~
 1529 ~~before any rights to the property are acquired unless:~~
 1530 ~~—— (a) public interest in obtaining access to the information outweighs the governmental~~
 1531 ~~entity's need to acquire the property on the best terms possible;~~
 1532 ~~—— (b) the information has already been disclosed to persons not employed by or under a~~
 1533 ~~duty of confidentiality to the entity;~~
 1534 ~~—— (c) in the case of records that would identify property, potential sellers of the described~~
 1535 ~~property have already learned of the governmental entity's plans to acquire the property;~~
 1536 ~~—— (d) in the case of records that would identify the appraisal or estimated value of~~
 1537 ~~property, the potential sellers have already learned of the governmental entity's estimated value~~
 1538 ~~of the property; or~~
 1539 ~~—— (e) the property under consideration for public acquisition is a single family residence~~
 1540 ~~and the governmental entity seeking to acquire the property has initiated negotiations to acquire~~
 1541 ~~the property as required under Section 78B-6-505;~~
 1542 ~~—— (8) records prepared in contemplation of sale, exchange, lease, rental, or other~~
 1543 ~~compensated transaction of real or personal property including intellectual property, which, if~~
 1544 ~~disclosed prior to completion of the transaction, would reveal the appraisal or estimated value ←H~~

1545 ~~It~~ of the subject property, unless:

1546 ~~—— (a) the public interest in access outweighs the interests in restricting access, including~~
1547 ~~the governmental entity's interest in maximizing the financial benefit of the transaction; or~~
1548 ~~—— (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of~~
1549 ~~the value of the subject property have already been disclosed to persons not employed by or~~
1550 ~~under a duty of confidentiality to the entity;~~
1551 ~~—— (9) records created or maintained for civil, criminal, or administrative enforcement~~
1552 ~~purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if~~
1553 ~~release of the records:~~
1554 ~~—— (a) reasonably could be expected to interfere with investigations undertaken for~~
1555 ~~enforcement, discipline, licensing, certification, or registration purposes;~~
1556 ~~—— (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement~~
1557 ~~proceedings;~~
1558 ~~—— (c) would create a danger of depriving a person of a right to a fair trial or impartial~~
1559 ~~hearing;~~
1560 ~~—— (d) reasonably could be expected to disclose the identity of a source who is not~~
1561 ~~generally known outside of government and, in the case of a record compiled in the course of~~
1562 ~~an investigation, disclose information furnished by a source not generally known outside of~~
1563 ~~government if disclosure would compromise the source; or~~
1564 ~~—— (e) reasonably could be expected to disclose investigative or audit techniques,~~
1565 ~~procedures, policies, or orders not generally known outside of government if disclosure would~~
1566 ~~interfere with enforcement or audit efforts;~~
1567 ~~—— (10) records the disclosure of which would jeopardize the life or safety of an~~
1568 ~~individual;~~
1569 ~~—— (11) records the disclosure of which would jeopardize the security of governmental~~
1570 ~~property, governmental programs, or governmental recordkeeping systems from damage, theft,~~
1571 ~~or other appropriation or use contrary to law or public policy;~~
1572 ~~—— (12) records that, if disclosed, would jeopardize the security or safety of a correctional~~
1573 ~~facility, or records relating to incarceration, treatment, probation, or parole, that would interfere~~
1574 ~~with the control and supervision of an offender's incarceration, treatment, probation, or parole;~~
1575 ~~—— (13) records that, if disclosed, would reveal recommendations made to the Board of ~~It~~~~

1576 ~~Ĥ→ Pardons and Parole by an employee of or contractor for the Department of Corrections, the~~
 1577 ~~Board of Pardons and Parole, or the Department of Human Services that are based on the~~
 1578 ~~employee's or contractor's supervision, diagnosis, or treatment of any person within the board's~~
 1579 ~~jurisdiction;~~
 1580 ~~———(14) records and audit workpapers that identify audit, collection, and operational~~
 1581 ~~procedures and methods used by the State Tax Commission, if disclosure would interfere with~~
 1582 ~~audits or collections;~~
 1583 ~~———(15) records of a governmental audit agency relating to an ongoing or planned audit~~
 1584 ~~until the final audit is released;~~
 1585 ~~———(16) records prepared by or on behalf of a governmental entity solely in anticipation of~~
 1586 ~~litigation that are not available under the rules of discovery;~~
 1587 ~~———(17) records disclosing an attorney's work product, including the mental impressions or~~
 1588 ~~legal theories of an attorney or other representative of a governmental entity concerning~~
 1589 ~~litigation;~~
 1590 ~~———(18) records of communications between a governmental entity and an attorney~~
 1591 ~~representing, retained, or employed by the governmental entity if the communications would be~~
 1592 ~~privileged as provided in Section 78B-1-137;~~
 1593 ~~———(19) (a) (i) personal files of a state legislator, including personal correspondence to or~~
 1594 ~~from a member of the Legislature; and~~
 1595 ~~———(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of~~
 1596 ~~legislative action or policy may not be classified as protected under this section; and~~
 1597 ~~———(b) (i) an internal communication that is part of the deliberative process in connection~~
 1598 ~~with the preparation of legislation between:~~
 1599 ~~———(A) members of a legislative body;~~
 1600 ~~———(B) a member of a legislative body and a member of the legislative body's staff; or~~
 1601 ~~———(C) members of a legislative body's staff; and~~
 1602 ~~———(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of~~
 1603 ~~legislative action or policy may not be classified as protected under this section;~~
 1604 ~~———(20) (a) records in the custody or control of the Office of Legislative Research and~~
 1605 ~~General Counsel, that, if disclosed, would reveal a particular legislator's contemplated~~
 1606 ~~legislation or contemplated course of action before the legislator has elected to support the ←Ĥ~~

1607 ~~It is the intent of the Legislature to make the legislation or course of action public; and~~
1608 ~~— (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the~~
1609 ~~Office of Legislative Research and General Counsel is a public document unless a legislator~~
1610 ~~asks that the records requesting the legislation be maintained as protected records until such~~
1611 ~~time as the legislator elects to make the legislation or course of action public;~~
1612 ~~— (21) research requests from legislators to the Office of Legislative Research and~~
1613 ~~General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared~~
1614 ~~in response to these requests;~~
1615 ~~— (22) drafts, unless otherwise classified as public;~~
1616 ~~— (23) records concerning a governmental entity's strategy about collective bargaining or~~
1617 ~~pending litigation;~~
1618 ~~— (24) records of investigations of loss occurrences and analyses of loss occurrences that~~
1619 ~~may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the~~
1620 ~~Uninsured Employers' Fund, or similar divisions in other governmental entities;~~
1621 ~~— (25) records, other than personnel evaluations, that contain a personal recommendation~~
1622 ~~concerning an individual if disclosure would constitute a clearly unwarranted invasion of~~
1623 ~~personal privacy, or disclosure is not in the public interest;~~
1624 ~~— (26) records that reveal the location of historic, prehistoric, paleontological, or~~
1625 ~~biological resources that if known would jeopardize the security of those resources or of~~
1626 ~~valuable historic, scientific, educational, or cultural information;~~
1627 ~~— (27) records of independent state agencies if the disclosure of the records would~~
1628 ~~conflict with the fiduciary obligations of the agency;~~
1629 ~~— (28) records of an institution within the state system of higher education defined in~~
1630 ~~Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,~~
1631 ~~retention decisions, and promotions, which could be properly discussed in a meeting closed in~~
1632 ~~accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of~~
1633 ~~the final decisions about tenure, appointments, retention, promotions, or those students~~
1634 ~~admitted, may not be classified as protected under this section;~~
1635 ~~— (29) records of the governor's office, including budget recommendations, legislative~~
1636 ~~proposals, and policy statements, that if disclosed would reveal the governor's contemplated~~
1637 ~~policies or contemplated courses of action before the governor has implemented or rejected~~ ←H

1638 ~~It~~→ those policies or courses of action or made them public;
 1639 ——— (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
 1640 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
 1641 recommendations in these areas;
 1642 ——— (31) records provided by the United States or by a government entity outside the state
 1643 that are given to the governmental entity with a requirement that they be managed as protected
 1644 records if the providing entity certifies that the record would not be subject to public disclosure
 1645 if retained by it;
 1646 ——— (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
 1647 except as provided in Section 52-4-206;
 1648 ——— (33) records that would reveal the contents of settlement negotiations but not including
 1649 final settlements or empirical data to the extent that they are not otherwise exempt from
 1650 disclosure;
 1651 ——— (34) memoranda prepared by staff and used in the decision-making process by an
 1652 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
 1653 other body charged by law with performing a quasi-judicial function;
 1654 ——— (35) records that would reveal negotiations regarding assistance or incentives offered
 1655 by or requested from a governmental entity for the purpose of encouraging a person to expand
 1656 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
 1657 person or place the governmental entity at a competitive disadvantage, but this section may not
 1658 be used to restrict access to a record evidencing a final contract;
 1659 ——— (36) materials to which access must be limited for purposes of securing or maintaining
 1660 the governmental entity's proprietary protection of intellectual property rights including patents,
 1661 copyrights, and trade secrets;
 1662 ——— (37) the name of a donor or a prospective donor to a governmental entity, including an
 1663 institution within the state system of higher education defined in Section 53B-1-102, and other
 1664 information concerning the donation that could reasonably be expected to reveal the identity of
 1665 the donor, provided that:
 1666 ——— (a) the donor requests anonymity in writing;
 1667 ——— (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
 1668 classified protected by the governmental entity under this Subsection (37); and ←It

1669 ~~H→~~ (c) ~~except for an institution within the state system of higher education defined in~~
 1670 ~~Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged~~
 1671 ~~in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority~~
 1672 ~~over the donor, a member of the donor's immediate family, or any entity owned or controlled~~
 1673 ~~by the donor or the donor's immediate family;~~
 1674 ~~—— (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and~~
 1675 ~~73-18-13;~~
 1676 ~~—— (39) a notification of workers' compensation insurance coverage described in Section~~
 1677 ~~34A-2-205;~~
 1678 ~~—— (40) (a) the following records of an institution within the state system of higher~~
 1679 ~~education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,~~
 1680 ~~or received by or on behalf of faculty, staff, employees, or students of the institution:~~
 1681 ~~—— (i) unpublished lecture notes;~~
 1682 ~~—— (ii) unpublished notes, data, and information:~~
 1683 ~~—— (A) relating to research; and~~
 1684 ~~—— (B) of:~~
 1685 ~~—— (I) the institution within the state system of higher education defined in Section~~
 1686 ~~53B-1-102; or~~
 1687 ~~—— (H) a sponsor of sponsored research;~~
 1688 ~~—— (iii) unpublished manuscripts;~~
 1689 ~~—— (iv) creative works in process;~~
 1690 ~~—— (v) scholarly correspondence; and~~
 1691 ~~—— (vi) confidential information contained in research proposals;~~
 1692 ~~—— (b) Subsection (40)(a) may not be construed to prohibit disclosure of public~~
 1693 ~~information required pursuant to Subsection 53B-16-302(2)(a) or (b); and~~
 1694 ~~—— (c) Subsection (40)(a) may not be construed to affect the ownership of a record;~~
 1695 ~~—— (41) (a) records in the custody or control of the Office of Legislative Auditor General~~
 1696 ~~that would reveal the name of a particular legislator who requests a legislative audit prior to the~~
 1697 ~~date that audit is completed and made public; and~~
 1698 ~~—— (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the~~
 1699 ~~Office of the Legislative Auditor General is a public document unless the legislator asks that ←H~~

1700 ~~H~~→ the records in the custody or control of the Office of Legislative Auditor General that would
 1701 reveal the name of a particular legislator who requests a legislative audit be maintained as
 1702 protected records until the audit is completed and made public;
 1703 ~~—— (42) records that provide detail as to the location of an explosive, including a map or~~
 1704 ~~other document that indicates the location of:~~
 1705 ~~—— (a) a production facility; or~~
 1706 ~~—— (b) a magazine;~~
 1707 ~~—— (43) information:~~
 1708 ~~—— (a) contained in the statewide database of the Division of Aging and Adult Services~~
 1709 ~~created by Section 62A-3-311.1; or~~
 1710 ~~—— (b) received or maintained in relation to the Identity Theft Reporting Information~~
 1711 ~~System (IRIS) established under Section 67-5-22;~~
 1712 ~~—— (44) information contained in the Management Information System and Licensing~~
 1713 ~~Information System described in Title 62A, Chapter 4a, Child and Family Services;~~
 1714 ~~—— (45) information regarding National Guard operations or activities in support of the~~
 1715 ~~National Guard's federal mission;~~
 1716 ~~—— (46) records provided by any pawn or secondhand business to a law enforcement~~
 1717 ~~agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and~~
 1718 ~~Secondhand Merchandise Transaction Information Act;~~
 1719 ~~—— (47) information regarding food security, risk, and vulnerability assessments performed~~
 1720 ~~by the Department of Agriculture and Food;~~
 1721 ~~—— (48) except to the extent that the record is exempt from this chapter pursuant to Section~~
 1722 ~~63G-2-106, records related to an emergency plan or program, a copy of which is provided to or~~
 1723 ~~prepared or maintained by the Division of Emergency Management, and the disclosure of~~
 1724 ~~which would jeopardize:~~
 1725 ~~—— (a) the safety of the general public; or~~
 1726 ~~—— (b) the security of:~~
 1727 ~~—— (i) governmental property;~~
 1728 ~~—— (ii) governmental programs; or~~
 1729 ~~—— (iii) the property of a private person who provides the Division of Emergency~~
 1730 ~~Management information; ←H~~

1731 ~~Ĥ→~~ (49) records of the Department of Agriculture and Food relating to the National
 1732 Animal Identification System or any other program that provides for the identification, tracing,
 1733 or control of livestock diseases, including any program established under Title 4, Chapter 24,
 1734 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
 1735 Quarantine;
 1736 ——— (50) as provided in Section 26-39-501:
 1737 ——— (a) information or records held by the Department of Health related to a complaint
 1738 regarding a child care program or residential child care which the department is unable to
 1739 substantiate; and
 1740 ——— (b) information or records related to a complaint received by the Department of Health
 1741 from an anonymous complainant regarding a child care program or residential child care;
 1742 ——— (51) unless otherwise classified as public under Section 63G-2-301 and except as
 1743 provided under Section 41-1a-116, an individual's home address, home telephone number, or
 1744 personal mobile phone number, if:
 1745 ——— (a) the individual is required to provide the information in order to comply with a law,
 1746 ordinance, rule, or order of a government entity; and
 1747 ——— (b) the subject of the record has a reasonable expectation that this information will be
 1748 kept confidential due to:
 1749 ——— (i) the nature of the law, ordinance, rule, or order; and
 1750 ——— (ii) the individual complying with the law, ordinance, rule, or order;
 1751 ——— (52) the name, home address, work addresses, and telephone numbers of an individual
 1752 that is engaged in, or that provides goods or services for, medical or scientific research that is:
 1753 ——— (a) conducted within the state system of higher education, as defined in Section
 1754 53B-1-102; and
 1755 ——— (b) conducted using animals;
 1756 ——— (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
 1757 Private Proposal Program, to the extent not made public by rules made under that chapter;
 1758 ——— (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
 1759 Evaluation Commission concerning an individual commissioner's vote on whether or not to
 1760 recommend that the voters retain a judge;
 1761 ——— (55) information collected and a report prepared by the Judicial Performance ←Ĥ

1762 ~~It~~ Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
 1763 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
 1764 the information or report;
 1765 ——— (56) records contained in the Management Information System created in Section
 1766 62A-4a-1003;
 1767 ——— (57) records provided or received by the Public Lands Policy Coordinating Office in
 1768 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
 1769 ——— (58) information requested by and provided to the Utah State 911 Committee under
 1770 Section 53-10-602;
 1771 ——— (59) recorded Children's Justice Center investigative interviews, both video and audio,
 1772 the release of which are governed by Section 77-37-4;
 1773 ——— (60) in accordance with Section 73-10-33:
 1774 ——— (a) a management plan for a water conveyance facility in the possession of the Division
 1775 of Water Resources or the Board of Water Resources; or
 1776 ——— (b) an outline of an emergency response plan in possession of the state or a county or
 1777 municipality;
 1778 ——— (61) the following records in the custody or control of the Office of Inspector General
 1779 of Medicaid Services, created in Section 63J-4a-201:
 1780 ——— (a) records that would disclose information relating to allegations of personal
 1781 misconduct, gross mismanagement, or illegal activity of a person if the information or
 1782 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
 1783 through other documents or evidence, and the records relating to the allegation are not relied
 1784 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
 1785 report or final audit report;
 1786 ——— (b) records and audit workpapers to the extent they would disclose the identity of a
 1787 person who, during the course of an investigation or audit, communicated the existence of any
 1788 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
 1789 regulation adopted under the laws of this state, a political subdivision of the state, or any
 1790 recognized entity of the United States, if the information was disclosed on the condition that
 1791 the identity of the person be protected;
 1792 ——— (c) before the time that an investigation or audit is completed and the final ~~It~~

1793 ~~It is the intent of this bill that, if an investigation or final audit report is released, records or drafts circulated to a person who is not~~
 1794 ~~an employee or head of a governmental entity for the person's response or information;~~
 1795 ~~— (d) records that would disclose an outline or part of any investigation, audit survey~~
 1796 ~~plan, or audit program; or~~
 1797 ~~— (e) requests for an investigation or audit, if disclosure would risk circumvention of an~~
 1798 ~~investigation or audit;~~
 1799 ~~— (62) records that reveal methods used by the Office of Inspector General of Medicaid~~
 1800 ~~Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or~~
 1801 ~~abuse;~~
 1802 ~~— (63) information provided to the Department of Health or the Division of Occupational~~
 1803 ~~and Professional Licensing under Subsection 58-68-304(3) or (4); [and]~~
 1804 ~~— (64) a record described in Section 63G-12-210[.]; and~~
 1805 ~~— (65) a record related to an ethics investigation of the Department of Alcoholic~~
 1806 ~~Beverage Control or Alcoholic Beverage Control Commission until a public recommendation~~
 1807 ~~or public sanction is issued.] ←H~~

1808 Section ~~H~~→ [24] 23 ←H . Section 63I-5-201 is amended to read:

1809 **63I-5-201. Internal auditing programs -- State agencies.**

1810 (1) (a) The Departments of Administrative Services, Agriculture, Commerce,
 1811 Community and Culture, Corrections, Workforce Services, Environmental Quality, Health,
 1812 Human Services, Natural Resources, Public Safety, and Transportation; and the State Tax
 1813 Commission shall conduct various types of auditing procedures as determined by the agency
 1814 head or governor.

1815 (b) The governor may, by executive order, require other state agencies to establish an
 1816 internal audit program.

1817 (c) An agency head may establish an internal audit program for the agency head's
 1818 agency if the agency administers programs that:

1819 (i) might pose a high liability risk to the state; or

1820 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1821 (2) (a) The Office of the Court Administrator shall conduct various types of auditing
 1822 procedures as determined by the Judicial Council, including auditing procedures for courts not
 1823 of record.

1824 (b) The Judicial Council may, by rule, require other judicial agencies to establish an
1825 internal audit program.

1826 (c) An agency head within the judicial branch may establish an internal audit program
1827 for the agency head's agency if the agency administers programs that:

1828 (i) might pose a high liability risk to the state; or

1829 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1830 (3) (a) The University of Utah, Utah State University, Salt Lake Community College,
1831 Utah Valley University, and Weber State University shall conduct various types of auditing
1832 procedures as determined by the Board of Regents.

1833 (b) The Board of Regents may issue policies requiring other higher education entities
1834 or programs to establish an internal audit program.

1835 (c) An agency head within higher education may establish an internal audit program for
1836 the agency head's agency if the agency administers programs that:

1837 (i) might pose a high liability risk to the state; or

1838 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1839 (4) The State Office of Education shall conduct various types of auditing procedures as
1840 determined by the State Board of Education.

1841 (5) Subject to Section 32B-2-302.5, the internal audit division of the Department of
1842 Alcoholic Beverage Control shall conduct various types of auditing procedures as determined
1843 by the Alcoholic Beverage Control Commission.

1844 Section 25. **Effective date.**

1845 This bill takes effect on July 1, 2012.