

1 **ALCOHOLIC BEVERAGE CONTROL RELATED AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Ryan D. Wilcox

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Alcoholic Beverage Control Act, the Open and Public Meetings
10 Act, and oversight provisions, to address the regulation of alcoholic products.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ changes the Alcoholic Beverage Control Commission to a seven member
- 14 commission and makes related changes;
- 15 ▶ addresses removal of commission members and chair;
- 16 ▶ creates subcommittees of the commission;
- 17 ▶ clarifies that the commission's policy authority is to be consistent with the policy
- 18 established by the Legislature by statute;
- 19 ▶ provides for appointment and termination of the director;
- 20 ▶ addresses appointment of interim director;
- 21 ▶ imposes terms on the length of time a director serves;
- 22 ▶ provides for the hiring and firing of upper management only with the approval of
- 23 the commission;
- 24 ▶ addresses prohibited interests, relationships, and actions;
- 25 ▶ 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;
- 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 ▶ removes purposes for which the commission may hold a closed meeting; and
- 44 ▶ makes technical and conforming amendments.

45 Money Appropriated in this Bill:

46 None

47 Other Special Clauses:

48 This bill takes effect on July 1, 2012.

49 Utah Code Sections Affected:

50 AMENDS:

- 51 **32B-2-201**, as last amended by Laws of Utah 2011, Chapters 308 and 334
- 52 **32B-2-202**, as last amended by Laws of Utah 2011, Chapter 334
- 53 **32B-2-205**, as last amended by Laws of Utah 2011, Chapter 334
- 54 **32B-2-206**, as last amended by Laws of Utah 2011, Chapter 336
- 55 **32B-2-207**, as enacted by Laws of Utah 2010, Chapter 276
- 56 **32B-2-209**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 57 **32B-2-302**, as enacted by Laws of Utah 2010, Chapter 276

- 58 **32B-2-605**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 59 **32B-3-204**, as enacted by Laws of Utah 2010, Chapter 276
- 60 **32B-6-805**, as enacted by Laws of Utah 2011, Chapter 334
- 61 **32B-8a-302 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 334
- 62 **32B-8a-303 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 334
- 63 **32B-9-201**, as enacted by Laws of Utah 2010, Chapter 276
- 64 **32B-9-202**, as enacted by Laws of Utah 2010, Chapter 276
- 65 **32B-9-204**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 66 **32B-9-303**, as enacted by Laws of Utah 2010, Chapter 276
- 67 **32B-9-403**, as enacted by Laws of Utah 2010, Chapter 276
- 68 **32B-9-404**, as enacted by Laws of Utah 2010, Chapter 276
- 69 **52-4-205**, as last amended by Laws of Utah 2011, Chapters 46 and 334
- 70 **63I-5-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

71 ENACTS:

- 72 **32B-2-201.5**, Utah Code Annotated 1953
- 73 **32B-2-302.5**, Utah Code Annotated 1953
- 74 **32B-2-210**, Utah Code Annotated 1953



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

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

78 **32B-2-201. Alcoholic Beverage Control Commission created.**

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

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

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

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

86 term.

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

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

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

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

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

98 (i) the governor; or

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

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

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

103 (ii) the alleged grounds for the removal.

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

105 (i) attend the hearing;

106 (ii) present witnesses and other evidence; and

107 (iii) confront and cross examine witnesses.

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

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

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

113 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing

114 examiner shall issue a written recommendation to the governor in addition to complying with
115 Subsection (6)(d).

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

119 (g) The governor shall:

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

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

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

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

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

126 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
127 63A-3-107.

128 (8) (a) The governor shall annually appoint the chair of the commission. A
129 commissioner serves as chair to the commission at the pleasure of the governor. If removed as
130 chair, the commissioner continues to serve as a commissioner unless removed as a
131 commissioner under Subsection (6).

132 (b) The commission shall elect:

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

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

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

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

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

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

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

- 144 (i) the commission;
- 145 (ii) the chair; or
- 146 (iii) three commissioners upon filing a written request for a meeting with the chair.

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

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

153 **32B-2-201.5. Commission subcommittee -- Chair's oversight responsibilities.**

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

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

157 (b) "Operations and Procurement Subcommittee."

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

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

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

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

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

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

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

168 **32B-2-202. Powers and duties of the commission.**

169 (1) The commission shall:

- 170 (a) consistent with the policy established by the Legislature by statute, act as a general
171 policymaking body on the subject of alcoholic product control;
- 172 (b) adopt and issue policies, rules, and procedures;
- 173 (c) set policy by written rules that establish criteria and procedures for:
- 174 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
175 permit, or certificate of approval; and
- 176 (ii) determining the location of a state store, package agency, or retail licensee;
- 177 (d) decide within the limits, and under the conditions imposed by this title, the number
178 and location of state stores, package agencies, and retail licensees in the state;
- 179 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
180 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
181 consumption, manufacture, and distribution of an alcoholic product:
- 182 (i) a package agency;
- 183 (ii) a full-service restaurant license;
- 184 (iii) a limited-service restaurant license;
- 185 (iv) a club license;
- 186 (v) an airport lounge license;
- 187 (vi) an on-premise banquet license;
- 188 (vii) a resort license, under which four or more sublicenses may be included;
- 189 (viii) an on-premise beer retailer license;
- 190 (ix) a reception center license;
- 191 (x) a beer-only restaurant license;
- 192 (xi) subject to Subsection (4), a single event permit;
- 193 (xii) subject to Subsection (4), a temporary beer event permit;
- 194 (xiii) a special use permit;
- 195 (xiv) a manufacturing license;
- 196 (xv) a liquor warehousing license;
- 197 (xvi) a beer wholesaling license; and

- 198 (xvii) one of the following that holds a certificate of approval:
- 199 (A) an out-of-state brewer;
- 200 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 201 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 202 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
- 203 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
- 204 manufacture, and distribution of an alcoholic product:
- 205 (i) a conditional full-service restaurant license; or
- 206 (ii) a conditional limited-service restaurant license;
- 207 (g) prescribe the duties of the department in assisting the commission in issuing a
- 208 package agency, license, permit, or certificate of approval under this title;
- 209 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 210 in accordance with Section 63J-1-504;
- 211 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 212 agencies, and retail licensees;
- 213 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 214 class, variety, or brand of liquor kept for sale by the department;
- 215 (k) (i) require the director to follow sound management principles; and
- 216 (ii) require periodic reporting from the director to ensure that:
- 217 (A) sound management principles are being followed; and
- 218 (B) policies established by the commission are being observed;
- 219 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
- 220 and matters submitted by the director to the commission; and
- 221 (ii) do the things necessary to support the department in properly performing the
- 222 department's duties;
- 223 (m) obtain temporarily and for special purposes the services of an expert or person
- 224 engaged in the practice of a profession, or a person who possesses a needed skill if:
- 225 (i) considered expedient; and

226 (ii) approved by the governor;

227 (n) prescribe the conduct, management, and equipment of premises upon which an

228 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

229 (o) make rules governing the credit terms of beer sales within the state to retail

230 licensees; and

231 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take

232 disciplinary action against a person subject to administrative action.

233 (2) [The] Consistent with the policy established by the Legislature by statute, the power

234 of the commission to do the following is plenary, except as otherwise provided by this title, and

235 not subject to review:

236 (a) establish a state store;

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

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

239 (3) If the commission is authorized or required to make a rule under this title, the

240 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative

241 Rulemaking Act.

242 (4) Notwithstanding Subsections (1)(e)(xi) and (xii), the director or deputy director

243 may issue an event permit in accordance with Chapter 9, Event Permit Act.

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

245 **32B-2-205. Director of alcoholic beverage control.**

246 (1) (a) ~~[The commission by a vote of four of the five commissioners, with the approval~~

247 ~~of the]~~ In accordance with Subsection (1)(b), the governor, [and] with the consent of the

248 Senate, shall appoint a director of alcoholic beverage control [who] to a four-year term. The

249 director may be appointed to more than one four-year term. The director is the administrative

250 head of the department.

251 (b) (i) The governor shall appoint the director from nominations made by the

252 commission.

253 (ii) The commission shall submit the nomination of three individuals to the governor

254 for appointment of the director.

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

257 (A) appoint the director; or

258 (B) reject the three nominations.

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

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

265 (c) If there is a vacancy in the position of director, during the nomination process
266 described in Subsection (1)(b), the governor may appoint an interim director for a period of up
267 to 30 calendar days. If a director is not appointed within the 30-day period, the interim director
268 may continue to serve beyond the 30-day period subject to the consent of the Senate at the next
269 scheduled time for the Senate giving consent to appointments of the governor. Except that if
270 the Senate does not act on the consent to the appointment of the interim director within 60 days
271 of the end of the initial 30-day period, the interim director may continue as the interim director.

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

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

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

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

277 ~~[(f)]~~ (f) The director shall:

278 (i) be qualified in administration;

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

280 and

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

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

284 (3) The director shall:

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

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

287 (c) fully inform the commission of the operations and administrative activities of the
288 department; and

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

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

291 **32B-2-206. Powers and duties of the director.**

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

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

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

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

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

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

302 (i) department personnel matters; and

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

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

306 (a) prescribe the conditions of employment;

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

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

310 (4) shall establish and secure adherence to a system of reports, controls, and
311 performance in matters relating to personnel, security, department property management, and
312 operation of:

313 (a) a department office;

314 (b) a warehouse;

315 (c) a state store; and

316 (d) a package agency;

317 (5) within the policies, rules, and procedures approved by the commission and
318 provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage, sale,
319 furnishing, transportation, or delivery of an alcoholic product;

320 (6) shall prepare for commission approval:

321 (a) recommendations regarding the location, establishment, relocation, and closure of a
322 state store or package agency;

323 (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or
324 revocation of a license, permit, or certificate of approval;

325 (c) an annual budget, proposed legislation, and reports as required by law and sound
326 business principles;

327 (d) plans for reorganizing divisions of the department and the functions of the
328 divisions;

329 (e) manuals containing commission and department policies, rules, and procedures;

330 (f) an inventory control system;

331 (g) any other report or recommendation requested by the commission;

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

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

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

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

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

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

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

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

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

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

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

354 [~~(10)~~] (11) shall perform any other duty required by the commission or by law.

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

356 **32B-2-207. Department employees -- Requirements.**

357 (1) "Upper management" means the director, a deputy director, or other Schedule AD,
358 AR, or AS employee of the department, as defined in Section 67-19-15, except for the director
359 of internal audits and auditors hired by the director of internal audits under Section
360 32B-2-302.5.

361 [~~(1)~~] (2) (a) Subject to this title, including the requirements of Chapter 1, Part 3,
362 Qualifications and Background, the director may prescribe the qualifications of a department
363 employee.

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

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

368 [~~2~~] (3) (a) A person who seeks employment with the department shall file with the
369 department an application under oath or affirmation in a form prescribed by the commission.

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

372 (i) of good moral character; and

373 (ii) qualified for the position sought.

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

376 [~~3~~] (4) The following are not considered a department employee:

377 (a) a package agent;

378 (b) a licensee;

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

380 (d) staff of a licensee.

381 [~~4~~] (5) The department may not employ a minor to:

382 (a) work in:

383 (i) a state store; or

384 (ii) a department warehouse; or

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

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

387 **32B-2-209. Prohibited interests, relationships, and actions.**

388 (1) As used in this section:

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

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

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

392 (iii) a department compliance officer; or

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

394 the department.

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

396 (i) spouse; or

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

398 (c) "Permit" does not include:

399 (i) an industrial or manufacturing use permit;

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

401 (iii) a religious wine use permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

449 (a) as a commissioner;

450 (b) as director of the department; or

451 (c) to a department staff position.

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

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

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

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

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

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

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

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

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

469 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

470 (1) There is created within the department an advisory board known as the "Alcoholic
471 Beverage Control Advisory Board."

472 (2) The advisory board shall consist of 12 members as follows:

473 (a) the following voting members appointed by the commission, a representative of:

474 (i) a full-service restaurant licensee;

475 (ii) a limited-service restaurant licensee;

476 (iii) a beer-only restaurant licensee;

477 (iv) a social club licensee;

478 (v) a fraternal club licensee;

479 (vi) a dining club licensee;

480 (vii) a wholesaler licensee;

481 (viii) an on-premise banquet licensee;

482 (ix) an on-premise beer retailer licensee; and

483 (x) a reception center licensee;

484 (b) the chair of the Utah Substance Abuse Advisory Council, or the chair's designee,
485 who serves as a voting member; and

486 (c) the chair of the commission or the chair's designee from the members of the
487 commission, who shall serve as a nonvoting member.

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

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

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

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

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

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

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

- 506 (7) (a) Six members of the board constitute a quorum of the board.
- 507 (b) An action of the majority when a quorum is present is the action of the board.
- 508 (8) The department shall provide staff support to the advisory board.
- 509 (9) A member may not receive compensation or benefits for the member's service, but
 510 may receive per diem and travel expenses in accordance with:

- 511 (a) Section 63A-3-106;
- 512 (b) Section 63A-3-107; and
- 513 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
 514 63A-3-107.

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

516 **32B-2-302. Exempt from Division of Finance -- Application of procurement --**
 517 **External audits.**

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

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

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

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

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

530 (2) The state auditor shall:

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

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

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

536 (3) Every two years, beginning for fiscal year 2013-14, the state auditor shall conduct
537 an audit of the department's:

538 (a) management operations, best practices, and efficiency; and

539 (b) ethics and statutory compliance.

540 (4) In addition to complying with Subsections (2) and (3), the state auditor may engage
541 in an activity related to the department or commission allowed under Utah Constitution, Article
542 VII, Section 15 or Title 67, Chapter 3, Auditor.

543 (5) The commission shall forward an audit report issued under Subsection (2) or (3) to
544 the following by no later than 30 days after the day on which the audit report is made:

545 (a) the governor;

546 (b) the Legislative Management Committee;

547 (c) the director; and

548 (d) the legislative auditor general.

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

550 **32B-2-302.5. Internal audits.**

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

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

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

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

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

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

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

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

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

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

575 (i) the governor;

576 (ii) the legislative auditor general; and

577 (iii) the Legislative Management Committee.

578 (e) Within 120 calendar days of an internal audit being completed, the commission
579 shall prepare a report to the governor describing steps taken to implement the recommendations
580 of the audit or a detailed explanation of why recommendations have not been implemented.

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

582 (i) the legislative auditor general; and

583 (ii) the Legislative Management Committee.

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

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

586 **32B-2-605. Operational requirements for package agency.**

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

589 (b) A package agency agreement shall state the conditions of operation by which the

590 package agent and the department are bound.

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

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

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

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

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

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

604 (i) the package agent; or

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

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

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

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

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

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

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

614 (f) A package agent shall:

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

617 (ii) receive prior approval from the department before implementing the change

618 described in this Subsection (2)(f).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

653 (a) a minor;

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

655 (c) a known interdicted person; or

656 (d) a known habitual drunkard.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

694 (A) on Sunday; or

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

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

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

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

702 with Chapter 11, Manufacturing and Related Licenses Act;

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

705 (A) a full-service restaurant license;

706 (B) a limited-service restaurant license;

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

708 (D) dining club license;

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

710 (iv) the restaurant or dining club sells an alcoholic product produced at the
711 manufacturing facility;

712 (v) the manufacturing facility:

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

714 (B) operates the restaurant or dining club;

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

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

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

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

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

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

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

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

730 person who is on the premises of a package agency is under the age of 21 and is not
731 accompanied by a person described in Subsection (14)(a) may:

- 732 (i) ask the suspected minor for proof of age;
- 733 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 734 (iii) ask the suspected minor or the person who accompanies the suspected minor for
735 proof of parental, guardianship, or spousal relationship.

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

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

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

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

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

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

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

751 (iii) subject to:

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

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

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

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

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

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

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

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

773 **32B-3-204. Disciplinary proceeding procedure.**

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

- 777 (i) the commission;
- 778 (ii) a hearing examiner appointed by the commission to conduct a suspension,
779 non-renewal, or revocation hearing required by law;
- 780 (iii) the director; and
- 781 (iv) the department.

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

785 (c) Except when otherwise provided by law, an adjudicative proceeding before the

786 commission or a hearing examiner appointed by the commission shall be:

787 (i) video or audio recorded; and

788 (ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4,
789 Open and Public Meetings Act.

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

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

796 (2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted
797 under the authority of the commission, which is responsible for rendering a final decision and
798 order on a disciplinary matter.

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

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

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

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

804 (I) findings of fact determined on the basis of a preponderance of the evidence
805 presented at the hearing;

806 (II) conclusions of law; and

807 (III) recommendations.

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

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

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

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

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

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

821 (A) administer an oath or affirmation;

822 (B) take evidence;

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

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

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

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

827 (ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and
828 produce a record or tangible thing as required in the subpoena.

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

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

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

838 (I) appear before the issuing party; and

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

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

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

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

844 (4) (a) The commission shall:

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

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

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

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

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

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

856 (ii) the alleged violation involves:

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

858 (B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct,
859 and Entertainment Act;

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

862 (D) interfering or refusing to cooperate with:

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

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

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

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

869 (G) unlawful supply of liquor by a liquor industry member, as defined in Section

870 32B-4-702, to a person other than the department or a military installation, except to the extent
871 permitted by this title; or

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

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

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

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

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

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

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

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

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

888 **32B-6-805. Specific operational requirements for a reception center license.**

889 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
890 Requirements, a reception center licensee and staff of the reception center licensee shall
891 comply with this section.

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

894 (i) a reception center licensee;

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

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

897 (2) In addition to complying with Section 32B-5-303, a reception center licensee shall

898 store an alcoholic product in a storage area described in Subsection (15)(a).

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

902 (i) the department; and

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

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

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

907 (ii) a law enforcement officer.

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

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

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

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

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

919 (i) destroy an opened and unused alcoholic product that is not saleable, under
920 conditions established by the department; and

921 (ii) return to the reception center licensee's approved locked storage area any:

922 (A) opened and unused alcoholic product that is saleable; and

923 (B) unopened container of an alcoholic product.

924 (c) Except as provided in Subsection (5)(b) with regard to an open or sealed container
925 of an alcoholic product not sold or consumed at an event, a reception center licensee:

926 (i) shall store the alcoholic product in accordance with Subsection (2); and

927 (ii) may use the alcoholic product at more than one event.

928 (6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a
929 minor in connection with an event at the reception center at which food is not made available.

930 (7) A person's willingness to serve an alcoholic product may not be made a condition
931 of employment as a server with a reception center licensee.

932 (8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
933 product at the licensed premises on any day during the period that:

934 (a) begins at 1 a.m.; and

935 (b) ends at 9:59 a.m.

936 (9) (a) A reception center licensee may not maintain in excess of 30% of its total
937 annual receipts from the sale of an alcoholic product, which includes:

938 [~~(a)~~] (i) mix for an alcoholic product; or

939 [~~(b)~~] (ii) a charge in connection with the furnishing of an alcoholic product.

940 (b) A reception center licensee shall report the information necessary to show
941 compliance with this Subsection (9) to the department on an annual basis.

942 (10) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
943 product at an event at which a minor is present unless the reception center licensee makes food
944 available at all times when an alcoholic product is sold, offered for sale, furnished, or
945 consumed during the event.

946 (11) (a) Subject to the other provisions of this Subsection (11), a patron may not have
947 more than two alcoholic products of any kind at a time before the patron.

948 (b) An individual portion of wine is considered to be one alcoholic product under
949 Subsection (11)(a).

950 (12) (a) A reception center licensee shall supervise and direct a person involved in the
951 sale, offer for sale, or furnishing of an alcoholic product.

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

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

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

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

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

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

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

965 (B) not accessible by a patron; and

966 (ii) apart from an area used:

967 (A) for staging; or

968 (B) as a lobby or waiting area;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

992 (c) The commission may by rule define what constitutes a "third-party host" for
993 purposes of this Subsection (17) so that a reception center licensee and the third-party host are
994 not owned by or operated by the same persons, except that the rule shall permit a reception
995 center licensee to host an event for an immediate family member of the reception center
996 licensee.

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

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

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

1000 (ii) under the same control as the reception center licensee.

1001 (19) (a) Except as provided in Subsection (19)(b), a reception center licensee may not
1002 operate an event:

1003 (i) that is open to the general public; and

1004 (ii) at which an alcoholic product is sold or offered for sale.

1005 (b) A reception center licensee may operate an event described in Subsection (19)(a) if
1006 the event is hosted:

1007 (i) at the reception center no more frequently than once a calendar year; and

1008 (ii) by a nonprofit organization that is organized and qualified under Section 501(c),
1009 Internal Revenue Code.

1010 Section 14. Section **32B-8a-302 (Effective 07/01/12)** is amended to read:

1011 **32B-8a-302 (Effective 07/01/12). Application -- Approval process.**

1012 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
1013 file a transfer application with the department that includes:

1014 (a) an application in the form provided by the department;

1015 (b) a statement as to whether the consideration, if any, to be paid to the transferor
1016 includes payment for any or all of the following:

1017 (i) inventory;

1018 (ii) fixtures; and

1019 (iii) transfer of the retail license;

1020 (c) a copy of the notice of intended transfer; and

1021 (d) (i) an application fee of \$300; and

1022 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

1023 (2) (a) (i) Before the commission may approve the transfer of a retail license, the
1024 department shall conduct an investigation and may hold public hearings to gather information
1025 and make recommendations to the commission as to whether the transfer of the retail license
1026 should be approved.

1027 (ii) The department shall forward the information and recommendations described in
1028 this Subsection (2)(a) to the commission to aid in the commission's determination.

1029 (b) Before approving a transfer, the commission shall:

1030 (i) determine that the transferee filed a complete application;

1031 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
1032 transferred at the premises to which the retail license would be transferred;

1033 (iii) determine that the transferee is not delinquent in the payment of an amount
1034 described in Subsection 32B-8a-201(3);

1035 (iv) determine that the transferee is not disqualified under Section 32B-1-304;

1036 (v) consider the locality within which the proposed licensed premises is located,
1037 including the factors listed in Section [~~32B-5-206~~] 32B-5-203 for the issuance of a retail

1038 license;

1039 (vi) consider the transferee's ability to manage and operate the retail license to be
1040 transferred, including the factors listed in Section [~~32B-5-202~~] 32B-5-203 for the issuance of a
1041 retail license;

1042 (vii) consider the nature or type of retail licensee operation of the transferee, including
1043 the factors listed in Section [~~32B-5-202~~] 32B-5-203 for the issuance of a retail license;

1044 (viii) if the transfer involves consideration, determine that the transferee and transferor
1045 have complied with Part 4, Protection of Creditors; and

1046 (ix) consider any other factor the commission considers necessary.

1047 (3) (a) Except as provided in Subsection (3)(b), the commission may not approve the
1048 transfer of a retail license to premises that do not meet the proximity requirements of Section
1049 32B-1-202.

1050 (b) If after a transfer of a retail license the transferee operates the same type of retail
1051 license at the same location as did the transferor, the commission may waive or vary the
1052 proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the
1053 transfer under the same circumstances that the commission may waive or vary the proximity
1054 requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a
1055 retail license.

1056 Section 15. Section **32B-8a-303 (Effective 07/01/12)** is amended to read:

1057 **32B-8a-303 (Effective 07/01/12). Transfer fees.**

1058 (1) Except as otherwise provided in this section, the department shall charge the
1059 following transfer fees:

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

1063 (b) for the transfer of a retail license from one premises to another premises of the
1064 same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant
1065 part under Chapter 6, Specific Retail License Act, for the type of retail license that is being

1066 transferred;

1067 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section

1068 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant part under

1069 Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;

1070 (d) for a transfer of a retail license to include the parent or adult child of a retail

1071 licensee, when no consideration is given for the transfer, the transfer fee is one-half of the

1072 amount described in Subsection (1)(a); and

1073 (e) for one of the following transfers, the transfer fee is one-half of the amount

1074 described in Subsection (1)(a):

1075 (i) a retail license of one spouse to the other spouse when the transfer application is

1076 made before the entry of a final decree of divorce;

1077 (ii) a retail license of a deceased retail licensee to:

1078 (A) the one or more surviving partners of the deceased retail licensee;

1079 (B) the executor, administrator, or conservator of the estate of the deceased retail

1080 licensee; or

1081 (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee

1082 leaves no estate to be administered;

1083 (iii) a retail license of [~~a minor ward,~~] an incompetent person[;] or conservatee by or to

1084 the conservator or guardian for the [~~minor ward,~~] incompetent person[;] or conservatee who is

1085 the retail licensee;

1086 (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt

1087 estate of the retail licensee;

1088 (v) a retail license of a person for whose estate a receiver is appointed may be

1089 transferred by or to a receiver of the estate of the retail licensee;

1090 (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for

1091 the benefit of creditors of a licensee with the consent of the assignor;

1092 (vii) a retail license transferred to a revocable living trust if the retail licensee is the

1093 trustee of the revocable living trust;

1094 (viii) a retail license transferred between partners when no new partner is being
1095 licensed;

1096 (ix) a retail license transferred between corporations whose outstanding shares of stock
1097 are owned by the same individuals;

1098 (x) upon compliance with Section 32B-8a-202, a retail license to a corporation whose
1099 entire stock is owned by:

1100 (A) the transferor; or

1101 (B) the spouse of the transferor;

1102 (xi) upon compliance with Section 32B-8a-202, a retail license to a limited liability
1103 company whose entire membership consists of:

1104 (A) the transferor; or

1105 (B) the spouse of the transferor; or

1106 (xii) a retail license transferred from a corporation to a person who owns, or whose
1107 spouse owns, the entire stock of the corporation.

1108 (2) If there are multiple and simultaneous transfers of retail licenses under Section
1109 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the retail
1110 licenses being transferred.

1111 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under
1112 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)~~(xiii)~~(xii)
1113 if the subsequent transfer is of 51% of the stock in a corporation to which a retail license is
1114 transferred by a retail licensee or the spouse of a retail licensee.

1115 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's
1116 adult child or adult grandchild, the transfer fee is one-half of the amount described in
1117 Subsection (1)(a).

1118 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

1119 Section 16. Section **32B-9-201** is amended to read:

1120 **32B-9-201. Application requirements for event permit.**

1121 (1) To obtain an event permit, a person shall submit to the department:

- 1122 (a) a written application in a form that the department prescribes;
- 1123 (b) an event permit fee:
 - 1124 (i) in the amount specified in the relevant part under this chapter for the type of event
 - 1125 permit for which the person is applying; and
 - 1126 (ii) that is refundable if an event permit is not issued;
- 1127 (c) written consent of the local authority;
- 1128 (d) a bond as specified by Section 32B-9-203;
- 1129 (e) the times, dates, location, estimated attendance, nature, and purpose of the event;
- 1130 (f) a description or floor plan designating:
 - 1131 (i) the area in which the person proposes that an alcoholic product be stored;
 - 1132 (ii) the site from which the person proposes that an alcoholic product be sold, offered
 - 1133 for sale, or furnished; and
 - 1134 (iii) the area in which the person proposes that an alcoholic product be allowed to be
 - 1135 consumed;
- 1136 (g) a signed consent form stating that the event permittee will permit any authorized
- 1137 representative of the commission, department, or any law enforcement officer to have
- 1138 unrestricted right to enter the premises during the event;
- 1139 (h) if the person is an entity, proper verification evidencing that a person who signs the
- 1140 application is authorized to sign on behalf of the entity; and
 - 1141 (i) any other information as the commission or department may require.
- 1142 (2) An entity applying for a permit need not meet the requirements of Subsections
- 1143 (1)(b), (c), and (d) if the entity is:
 - 1144 (a) a state agency; or
 - 1145 (b) a political subdivision of the state.
- 1146 (3) The [~~commission~~] director may not issue an event permit to a person who is
- 1147 disqualified under Section 32B-1-304.
- 1148 (4) (a) The proximity requirements of Section 32B-1-202 do not apply to an event
- 1149 permit.

1150 (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the director, the
1151 Compliance, Licensing, and Enforcement Subcommittee, or the commission from considering
1152 the proximity of an educational, religious, or recreational facility, or any other relevant factor in
1153 deciding whether to issue an event permit.

1154 Section 17. Section **32B-9-202** is amended to read:

1155 **32B-9-202. Duties before issuing event permit.**

1156 (1) (a) Before the [~~commission~~] director may issue an event permit, the department
1157 shall conduct an investigation and may hold public hearings to gather information and make
1158 recommendations to the [~~commission~~] director as to whether the [~~commission~~] director should
1159 issue an event permit.

1160 (b) The department shall forward the information and recommendations described in
1161 Subsection (1)(a) to the [~~commission~~] director and the Compliance, Licensing, and
1162 Enforcement Subcommittee to aid in the [~~commission's~~] determination.

1163 (2) Before issuing an event permit, the [~~commission~~] director shall:

1164 (a) determine that the person filed a complete application and is in compliance with:

1165 (i) Section 32B-9-201; and

1166 (ii) the relevant part under this chapter for the type of event permit for which the
1167 person is applying;

1168 (b) determine that the person is not disqualified under Section 32B-1-304;

1169 (c) consider the purpose of the organization or its local lodge, chapter, or other local
1170 unit;

1171 (d) consider the times, dates, location, estimated attendance, nature, and purpose of the
1172 event;

1173 (e) to minimize the risk of minors being sold or furnished alcohol or adults being
1174 overserved alcohol at the event, assess the adequacy of control measures for:

1175 (i) a large-scale public event when the estimated attendance is in excess of 1,000
1176 people; or

1177 (ii) an outdoor public event; [~~and~~]

1178 (f) obtain the approval of the Compliance, Licensing, and Enforcement Subcommittee
1179 before issuing an event permit;

1180 (g) notify each commissioner at least three business days before the director issues the
1181 event permit in accordance with Subsection (3); and

1182 [~~(f)~~] (h) consider any other factor the [commission] director considers necessary.

1183 (3) (a) The director shall inform each commissioner of the director's preliminary
1184 decision to issue or deny the issuance of an event permit three business days before the
1185 decision is to be final.

1186 (b) The preliminary decision becomes a final decision of the director:

1187 (i) unless within three business days of receipt of the notice at least three of the
1188 commissioners request a meeting to discuss whether the event permit should be issued; or

1189 (ii) the director modifies or revokes the preliminary decision to issue or deny issuance
1190 of the event permit.

1191 (c) If three or more of the commissioners request a meeting, the applicant for the event
1192 permit shall be notified and the commission:

1193 (i) shall hold a meeting on the application for an event permit no later than the next
1194 regularly scheduled meeting of the commission; and

1195 (ii) may issue or deny issuance of the event permit if the applicant meets the
1196 requirements of this chapter.

1197 (d) Notwithstanding the other provisions of this Subsection (3), the director may at any
1198 time refer an application for an event permit directly to the commission for a determination as
1199 to whether an event permit should be issued or denied.

1200 (e) For purposes of this title, an event permit issued by the commission is to be treated
1201 the same as an event permit issued by the director.

1202 (f) If the commission finds that an event permit was improperly issued or that the
1203 permittee has violated this chapter, the commission may take any action permitted under this
1204 title.

1205 [~~(3)~~] (4) Once the [commission] director issues an event permit, the department shall

1206 send a copy of the approved application and the event permit by written or electronic means to
1207 the state and local law enforcement authorities [~~before the scheduled event~~] at least three days
1208 before the event.

1209 (5) The director shall provide the commission a monthly report of the actions taken by
1210 the director under this part.

1211 (6) If authorized by the director, the deputy director may act on behalf of the director
1212 for purposes of issuing an event permit under this chapter.

1213 Section 18. Section **32B-9-204** is amended to read:

1214 **32B-9-204. General operational requirements for an event permit.**

1215 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
1216 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
1217 with this title and rules of the commission.

1218 (b) Failure to comply as provided in Subsection (1)(a):

1219 (i) may result in:

1220 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
1221 Enforcement Act, against:

1222 (I) an event permittee;

1223 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
1224 product at the event; or

1225 (III) any combination of the persons listed in this Subsection (1)(b);

1226 (B) immediate revocation of the event permit;

1227 (C) forfeiture of a bond; or

1228 (D) immediate seizure of an alcoholic product present at the event; and

1229 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
1230 event permit for a period of three years from the date of revocation of the event permit.

1231 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
1232 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

1233 (2) (a) If there is a conflict between this part and the relevant part under this chapter for

1234 the specific type of special use permit held by the special use permittee, the relevant part
1235 governs.

1236 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
1237 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
1238 relevant part under this chapter for the type of event permit that is held by the event permittee.

1239 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
1240 event permit held by an event permittee refers to "event permittee," a person involved in the
1241 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
1242 event permit is issued is subject to the same requirement or prohibition.

1243 (3) An event permittee shall display a copy of the event permit in a prominent place in
1244 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

1245 (4) An event permittee may not on the premises of the event:

1246 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
1247 Chapter 10, Part 11, Gambling;

1248 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1249 Part 11, Gambling; or

1250 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1251 the risking of something of value for a return or for an outcome when the return or outcome is
1252 based upon an element of chance, excluding the playing of an amusement device that confers
1253 only an immediate and unrecorded right of replay not exchangeable for value.

1254 (5) An event permittee may not knowingly allow a person at an event to, in violation of
1255 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
1256 Paraphernalia Act:

1257 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1258 58-37-2; or

1259 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1260 Section 58-37a-3.

1261 (6) An event permittee may not sell, offer for sale, or furnish beer except beer

1262 purchases from:

1263 (a) a beer wholesaler licensee;

1264 (b) a beer retailer; or

1265 (c) a small brewer.

1266 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
1267 consumption of an alcoholic product purchased for an event in a location other than that
1268 described in the application and designated on the event permit unless the event permittee first
1269 applies for and receives approval from the ~~[commission]~~ director, with the approval of the
1270 Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

1271 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
1272 furnish beer for on-premise consumption:

1273 (i) in an open original container; and

1274 (ii) in a container on draft.

1275 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
1276 Subsection (8)(a):

1277 (i) in a size of container that exceeds two liters; or

1278 (ii) to an individual patron in a size of container that exceeds one liter.

1279 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
1280 than the cost of the alcoholic product to the event permittee.

1281 (b) An event permittee may not sell an alcoholic product at a discount price on any date
1282 or at any time.

1283 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that
1284 encourages over consumption or intoxication.

1285 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or
1286 reduced price for only certain hours of the day of an event.

1287 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
1288 product at the price of a single alcoholic product.

1289 (f) An event permittee, or a person operating, selling, offering, or furnishing an

1290 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
1291 unlimited number of alcoholic products during a set period for a fixed price, unless:

1292 (i) the alcoholic product is served to a patron at a seated event;

1293 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
1294 furnished; and

1295 (iii) no person advertises that at the event a person may be sold or furnished an
1296 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

1297 (g) An event permittee may not engage in a public promotion involving or offering a
1298 free alcoholic product to the general public.

1299 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

1300 (a) a minor;

1301 (b) a person actually, apparently, or obviously intoxicated;

1302 (c) a known interdicted person; or

1303 (d) a known habitual drunkard.

1304 (11) (a) An alcoholic product is considered under the control of the event permittee
1305 during an event.

1306 (b) A patron at an event may not bring an alcoholic product onto the premises of the
1307 event.

1308 (12) An event permittee may not permit a patron to carry from the premises an open
1309 container that:

1310 (a) is used primarily for drinking purposes; and

1311 (b) contains an alcoholic product.

1312 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at
1313 an event is considered under the supervision and direction of the event permittee.

1314 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
1315 an event may not, while on duty:

1316 (i) consume an alcoholic product; or

1317 (ii) be intoxicated.

1318 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
1319 event.

1320 (15) The location specified in an event permit may not be changed without prior
1321 written approval of the commission.

1322 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
1323 attempt in any way to dispose of the event permit to another person whether for monetary gain
1324 or not.

1325 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the
1326 consumption of an alcoholic product during a period that:

1327 (i) begins at 1 a.m.; and

1328 (ii) ends at 9:59 a.m.

1329 (b) This Subsection (17) does not preclude a local authority from being more restrictive
1330 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic
1331 product at an event.

1332 (18) A patron may have no more than one alcoholic product of any kind at a time
1333 before the patron.

1334 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters
1335 that consists of text in the following order:

1336 (i) a header that reads: "WARNING";

1337 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1338 can cause birth defects and permanent brain damage for the child.";

1339 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1340 [insert most current toll-free number] with questions or for more information.";

1341 (iv) a header that reads: "WARNING"; and

1342 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1343 serious crime that is prosecuted aggressively in Utah."

1344 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
1345 font style than the text described in Subsections (19)(a)(iv) and (v).

1346 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
1347 same font size.

1348 (c) The Department of Health shall work with the commission and department to
1349 facilitate consistency in the format of a sign required under this section.

1350 Section 19. Section **32B-9-303** is amended to read:

1351 **32B-9-303. Director's power to issue single event permit.**

1352 (1) Before a person may sell, offer for sale, or furnish liquor at retail for on-premise
1353 consumption at an event, the person shall first obtain a single event permit from the
1354 [~~commission~~] director in accordance with this part.

1355 (2) (a) [~~The commission~~] Subject to Subsection (5), the director may issue a single
1356 event permit to any of the following that is conducting a convention, civic, or community
1357 enterprise, a bona fide:

- 1358 (i) partnership;
- 1359 (ii) corporation;
- 1360 (iii) limited liability company;
- 1361 (iv) religious organization;
- 1362 (v) political organization;
- 1363 (vi) incorporated association;
- 1364 (vii) recognized subordinate lodge, chapter, or other local unit of an entity described in
1365 this Subsection (2)(a);
- 1366 (viii) state agency; or
- 1367 (ix) political subdivision of the state.

1368 (b) The [~~commission~~] director may not issue a single event permit to an entity that has
1369 not been in existence as a bona fide entity for at least one year before the day on which the
1370 entity applies for a single event permit.

1371 (3) (a) A single event permit may authorize:

- 1372 (i) the storage, sale, offering for sale, furnishing, and consumption of liquor at an event
1373 at which the storage, sale, offering for sale, furnishing, or consumption of liquor is otherwise

1374 prohibited by this title under either:

1375 (A) a 120 hour single event permit; or

1376 (B) a 72 hour single event permit; and

1377 (ii) the storage, sale, offer for sale, furnishing, and consumption of beer at the same
1378 event for the period that the storage, sale, offer for sale, furnishing, or consumption of liquor is
1379 authorized under Subsection (3)(a)(i) for the single event permit.

1380 (b) The single event permit shall state in writing whether it is:

1381 (i) a 120 hour single event permit; or

1382 (ii) a 72 hour single event permit.

1383 (4) The ~~commission~~ director may not issue more than:

1384 (a) four single event permits in any one calendar year to the same person listed in
1385 Subsection (2) if one or more of the single event permits is a 120 hour single event permit; or

1386 (b) 12 single event permits in any one calendar year to the same person listed in
1387 Subsection (2) if each of the single event permits issued to that person is a 72 hour single event
1388 permit.

1389 (5) Before the director issues or denies the issuance of a single event permit under this
1390 section, the director shall comply with Section 32B-9-202.

1391 Section 20. Section **32B-9-403** is amended to read:

1392 **32B-9-403. Director's power to issue temporary beer event permit.**

1393 (1) Before a person may sell, offer for sale, or furnish beer at retail for on-premise
1394 consumption at an event, the person shall obtain in accordance with this part:

1395 (a) a single event permit; or

1396 (b) (i) a temporary beer event permit; and

1397 (ii) (A) a beer permit issued by the local authority as provided in Section 32B-9-404; or

1398 (B) written consent of the local authority to sell beer at retail for on-premise
1399 consumption at the event.

1400 (2) (a) ~~[The commission]~~ Subject to Subsection (4), the director may issue a temporary
1401 beer event permit to allow the sale, offering for sale, or furnishing of beer for on-premise

1402 consumption only at an event that does not last longer than 30 days.

1403 (b) A temporary beer event permit authorizes, for a period not to exceed 30 days, the
1404 storage, sale, offer for sale, furnishing, and consumption of beer at an event.

1405 (c) If a person obtains a temporary beer event permit for an event that lasts no longer
1406 than 30 days, an on-premise beer retailer license is not required for the sale of beer at the event.

1407 (3) (a) The [~~commission~~] director may not issue a temporary beer event permit to a
1408 person if the aggregate of the days that the person is authorized to store, sell, offer for sale, or
1409 furnish an alcoholic product under a temporary beer event permit will exceed a total of 90 days
1410 in any one calendar year.

1411 (b) The [~~commission~~] director may not issue, and a person may not obtain, a temporary
1412 beer event permit to avoid or attempt to avoid the requirement to be licensed under Chapter 6,
1413 Part 7, On-premise Beer Retailer License.

1414 (4) Before the director issues or denies the issuance of a temporary beer event permit
1415 under this section, the director shall comply with Section 32B-9-202.

1416 Section 21. Section **32B-9-404** is amended to read:

1417 **32B-9-404. Local authority's power to issue temporary beer event permit.**

1418 (1) A local authority may issue, suspend, and revoke a temporary permit to sell, offer
1419 for sale, or furnish beer for on-premise consumption at an event, except that the local authority
1420 may not issue a temporary permit if the event lasts longer than 30 days.

1421 (2) Suspension or revocation of a temporary beer event permit issued [~~by the~~
1422 ~~commission~~] under Section 32B-9-403 or a temporary permit issued by a local authority under
1423 this section prohibits the temporary beer event permittee who has a permit suspended or
1424 revoked by either the commission or local authority from continuing to operate under the other
1425 state or local permit.

1426 Section 22. Section **52-4-205** is amended to read:

1427 **52-4-205. Purposes of closed meetings.**

1428 (1) A closed meeting described under Section 52-4-204 may only be held for:

1429 (a) discussion of the character, professional competence, or physical or mental health

1430 of an individual;

1431 (b) strategy sessions to discuss collective bargaining;

1432 (c) strategy sessions to discuss pending or reasonably imminent litigation;

1433 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,

1434 including any form of a water right or water shares, if public discussion of the transaction

1435 would:

1436 (i) disclose the appraisal or estimated value of the property under consideration; or

1437 (ii) prevent the public body from completing the transaction on the best possible terms;

1438 (e) strategy sessions to discuss the sale of real property, including any form of a water

1439 right or water shares, if:

1440 (i) public discussion of the transaction would:

1441 (A) disclose the appraisal or estimated value of the property under consideration; or

1442 (B) prevent the public body from completing the transaction on the best possible terms;

1443 (ii) the public body previously gave public notice that the property would be offered for

1444 sale; and

1445 (iii) the terms of the sale are publicly disclosed before the public body approves the

1446 sale;

1447 (f) discussion regarding deployment of security personnel, devices, or systems;

1448 (g) investigative proceedings regarding allegations of criminal misconduct;

1449 (h) as relates to the Independent Legislative Ethics Commission, conducting business

1450 relating to the receipt or review of ethics complaints;

1451 (i) as relates to an ethics committee of the Legislature, a purpose permitted under

1452 Subsection 52-4-204(1)(a)(iii)(B);

1453 (j) as relates to a county legislative body, discussing commercial information as

1454 defined in Section 59-1-404;

1455 ~~[(k) as relates to the Alcoholic Beverage Control Commission issuing a retail license~~

1456 ~~under Title 32B, Alcoholic Beverage Control Act, after receiving public input in a public~~

1457 ~~meeting in support or opposition to the commission issuing the retail license, discussing one or~~

1458 ~~more of the following factors in a closed meeting:]~~
1459 ~~[(i) a factor the commission is required to consider under Section 32B-5-203 or that is~~
1460 ~~specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail~~
1461 ~~license at issue;]~~
1462 ~~[(ii) the availability of a retail license under a quota;]~~
1463 ~~[(iii) the length of time the applicant has waited for a retail license;]~~
1464 ~~[(iv) an opening date for the applicant;]~~
1465 ~~[(v) whether the applicant is a seasonal business;]~~
1466 ~~[(vi) whether the location of the applicant has been previously licensed or is a new~~
1467 ~~location;]~~
1468 ~~[(vii) whether the application involves a change of ownership of an existing location;]~~
1469 ~~[(viii) whether the applicant holds other alcohol licenses at any location;]~~
1470 ~~[(ix) whether the applicant has a violation history or a pending violation;]~~
1471 ~~[(x) projected alcohol sales for the applicant as it relates to the extent to which the~~
1472 ~~retail license will be used;]~~
1473 ~~[(xi) whether the applicant is a small or entrepreneurial business that would benefit the~~
1474 ~~community in which it would be located;]~~
1475 ~~[(xii) the nature of entertainment the applicant proposes; or]~~
1476 ~~[(xiii) public input in support or opposition to granting the retail license;]~~
1477 ~~[(†) (k) as relates to the Utah Higher Education Assistance Authority and its appointed~~
1478 ~~board of directors, discussing fiduciary or commercial information as defined in Section~~
1479 ~~53B-12-102; or~~
1480 ~~[(m)] (l) a purpose for which a meeting is required to be closed under Subsection (2).~~
1481 (2) The following meetings shall be closed:
1482 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
1483 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
1484 described in Subsections 62A-16-301(2) and (4); and
1485 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

1486 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
1487 responses to the report described in Subsections 62A-16-301(2) and (4); or

1488 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5).

1489 (3) A public body may not interview a person applying to fill an elected position in a
1490 closed meeting.

1491 Section 23. Section **63I-5-201** is amended to read:

1492 **63I-5-201. Internal auditing programs -- State agencies.**

1493 (1) (a) The Departments of Administrative Services, Agriculture, Commerce,
1494 Community and Culture, Corrections, Workforce Services, Environmental Quality, Health,
1495 Human Services, Natural Resources, Public Safety, and Transportation; and the State Tax
1496 Commission shall conduct various types of auditing procedures as determined by the agency
1497 head or governor.

1498 (b) The governor may, by executive order, require other state agencies to establish an
1499 internal audit program.

1500 (c) An agency head may establish an internal audit program for the agency head's
1501 agency if the agency administers programs that:

1502 (i) might pose a high liability risk to the state; or

1503 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1504 (2) (a) The Office of the Court Administrator shall conduct various types of auditing
1505 procedures as determined by the Judicial Council, including auditing procedures for courts not
1506 of record.

1507 (b) The Judicial Council may, by rule, require other judicial agencies to establish an
1508 internal audit program.

1509 (c) An agency head within the judicial branch may establish an internal audit program
1510 for the agency head's agency if the agency administers programs that:

1511 (i) might pose a high liability risk to the state; or

1512 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1513 (3) (a) The University of Utah, Utah State University, Salt Lake Community College,

1514 Utah Valley University, and Weber State University shall conduct various types of auditing
1515 procedures as determined by the Board of Regents.

1516 (b) The Board of Regents may issue policies requiring other higher education entities
1517 or programs to establish an internal audit program.

1518 (c) An agency head within higher education may establish an internal audit program for
1519 the agency head's agency if the agency administers programs that:

1520 (i) might pose a high liability risk to the state; or

1521 (ii) are essential to the health, safety, and welfare of the citizens of Utah.

1522 (4) The State Office of Education shall conduct various types of auditing procedures as
1523 determined by the State Board of Education.

1524 (5) Subject to Section 32B-2-302.5, the internal audit division of the Department of
1525 Alcoholic Beverage Control shall conduct various types of auditing procedures as determined
1526 by the Alcoholic Beverage Control Commission.

1527 Section 24. **Effective date.**

1528 This bill takes effect on July 1, 2012.