

ALCOHOL SERVICE IN RESTAURANTS

2013 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address when a restaurant may sell, offer for sale, or furnish an alcoholic product.

Highlighted Provisions:

This bill:

- ▶ modifies the language related to a restaurant licensee confirming that a patron has the intent to order food as a condition of receiving an alcoholic product; and
- ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **32B-6-205**, as last amended by Laws of Utah 2011, Chapters 307 and 334

36 **32B-6-305**, as last amended by Laws of Utah 2011, Chapters 307 and 334

37 **32B-6-905**, as enacted by Laws of Utah 2011, Chapter 334



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

40 Section 1. Section **32B-6-205** is amended to read:

41 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

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

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

- 47 (i) a full-service restaurant licensee;
- 48 (ii) individual staff of a full-service restaurant licensee; or
- 49 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
50 licensee.

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

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

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

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

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

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

66 (i) begins at midnight; and

67 (ii) ends at 11:29 a.m.

68 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
69 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
70 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
71 11:30 a.m. on any day.

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

74 (a) mix for an alcoholic product; or

75 (b) a service charge.

76 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
77 alcoholic product except [~~in connection with an order for~~] after the full-service restaurant
78 licensee confirms that the patron has the intent to order food prepared, sold, and furnished at
79 the licensed premises.

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

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

84 (b) A patron may not have more than one spirituous liquor drink at a time before the

85 patron.

86 (c) An individual portion of wine is considered to be one alcoholic product under
87 Subsection (9)(a).

88 (10) A patron may consume an alcoholic product only:

89 (a) at:

90 (i) the patron's table;

91 (ii) a counter; or

92 (iii) a seating grandfathered bar structure; and

93 (b) where food is served.

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

97 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
98 may:

99 (i) sit;

100 (ii) be furnished an alcoholic product; and

101 (iii) consume an alcoholic product.

102 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
103 full-service restaurant licensee may not permit a minor to, and a minor may not:

104 (i) sit; or

105 (ii) consume food or beverages.

106 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
107 by a full-service restaurant licensee:

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

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

111 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
112 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's

113 premises in which the minor is permitted to be.

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

116 (a) the alcoholic product is dispensed from:

117 (i) a grandfathered bar structure;

118 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
119 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
120 12, 2009; or

121 (iii) an area that is:

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

125 (I) not readily visible to a patron; and

126 (II) not accessible by a patron; and

127 (B) apart from an area used:

128 (I) for dining;

129 (II) for staging; or

130 (III) as a lobby or waiting area;

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

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

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

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

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

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

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

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

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

146 Section 2. Section **32B-6-305** is amended to read:

147 **32B-6-305. Specific operational requirements for a limited-service restaurant**
148 **license.**

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

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

- 154 (i) a limited-service restaurant licensee;
- 155 (ii) individual staff of a limited-service restaurant licensee; or
- 156 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
157 licensee.

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

- 160 (i) spirituous liquor; or
- 161 (ii) a flavored malt beverage.

162 (b) A product listed in Subsection (2)(a) may not be on the premises of a
163 limited-service restaurant licensee except for use:

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

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

168 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant

169 licensee's premises shall make a written beverage tab for each table or group that orders or
170 consumes an alcoholic product on the premises.

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

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

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

177 (i) begins at midnight; and

178 (ii) ends at 11:29 a.m.

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

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

185 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
186 alcoholic product except [~~in connection with an order for~~] after the limited-service restaurant
187 licensee confirms that the patron has the intent to order food prepared, sold, and furnished at
188 the licensed premises.

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

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

193 (b) An individual portion of wine is considered to be one alcoholic product under
194 Subsection (9)(a).

195 (10) A patron may consume an alcoholic product only:

196 (a) at:

- 197 (i) the patron's table;
- 198 (ii) a counter; or
- 199 (iii) a seating grandfathered bar structure; and
- 200 (b) where food is served.

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

204 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
205 may:

- 206 (i) sit;
- 207 (ii) be furnished an alcoholic product; and
- 208 (iii) consume an alcoholic product.

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

- 211 (i) sit; or
- 212 (ii) consume food or beverages.

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

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

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

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

221 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
222 licensee may dispense an alcoholic product only if:

- 223 (a) the alcoholic product is dispensed from:
224 (i) a grandfathered bar structure;

225 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
226 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
227 12, 2009; or

228 (iii) an area that is:

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

232 (I) not readily visible to a patron; and

233 (II) not accessible by a patron; and

234 (B) apart from an area used:

235 (I) for dining;

236 (II) for staging; or

237 (III) as a lobby or waiting area;

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

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

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

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

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

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

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

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

251 (a) a set-up charge;

252 (b) a service charge; or

253 (c) a chilling fee.

254 Section 3. Section **32B-6-905** is amended to read:

255 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

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

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

261 (i) a beer-only restaurant licensee;

262 (ii) individual staff of a beer-only restaurant licensee; or

263 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

264 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
265 sale, furnish, or allow consumption of liquor.

266 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

267 (i) as a flavoring on a dessert; and

268 (ii) in the preparation of a flaming food dish, drink, or dessert.

269 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
270 shall store beer in a storage area described in Subsection (12)(a).

271 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
272 make a written beverage tab for each table or group that orders or consumes an alcoholic
273 product on the premises.

274 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
275 beer ordered or consumed.

276 (5) A person's willingness to serve beer may not be made a condition of employment as
277 a server with a beer-only restaurant licensee.

278 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
279 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
280 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before

281 11:30 a.m. on any day.

282 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
283 business from the sale of food, which does not include a service charge.

284 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except [~~in~~
285 ~~connection with an order for~~] after the beer-only restaurant licensee confirms that the patron
286 has the intent to order food prepared, sold, and furnished at the licensed premises.

287 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
288 facilities for food preparation and dining accommodations.

289 (9) A patron may not have more than two beers at a time before the patron.

290 (10) A patron may consume a beer only:

291 (a) at:

292 (i) the patron's table;

293 (ii) a grandfathered bar structure; or

294 (iii) a counter; and

295 (b) where food is served.

296 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
297 a patron, and a patron may not consume an alcoholic product at a bar structure.

298 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
299 is 21 years of age or older may:

300 (i) sit;

301 (ii) be furnished a beer; and

302 (iii) consume a beer.

303 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
304 beer-only restaurant licensee may not permit a minor to, and a minor may not:

305 (i) sit; or

306 (ii) consume food or beverages.

307 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
308 beer-only restaurant licensee:

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

310 (B) to perform maintenance and cleaning services during an hour when the beer-only
311 restaurant licensee is not open for business.

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

315 (12) A beer-only restaurant licensee may dispense a beer only if:

316 (a) the beer is dispensed from an area that is:

317 (i) a grandfathered bar structure; or

318 (ii) separated from an area for the consumption of food by a patron by a solid,
319 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
320 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
321 from an area used for dining, for staging, or as a lobby or waiting area;

322 (b) the beer-only restaurant licensee uses a beer that is:

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

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

325 (A) immediately before the beer is dispensed it is in an unopened container;

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

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

329 (c) any instrument or equipment used to dispense the beer is located in an area
330 described in Subsection (12)(a).