

Representative Ryan D. Wilcox proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires money be appropriated by the Legislature or provided by statute for the department to draw from the Liquor Control Fund or the Markup Holding Fund with limited exceptions;
- ▶ clarifies who makes warrants on the funds;
- ▶ provides for Division of Finance to make year-end closing entries;
- ▶ removes certain restrictions on the dispensing and storage of alcoholic products;
- ▶ repeals credit for grandfathered bar structures; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **32B-1-102**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

29 **32B-2-301**, as last amended by Laws of Utah 2012, Chapter 357

30 **32B-6-205**, as last amended by Laws of Utah 2011, Chapters 307 and 334

31 **32B-6-305**, as last amended by Laws of Utah 2011, Chapters 307 and 334

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

33 **32B-6-805**, as last amended by Laws of Utah 2012, Chapter 365

34 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

35 **32B-6-905**, as enacted by Laws of Utah 2011, Chapter 334

36 REPEALS:

37 **32B-6-205.1**, as enacted by Laws of Utah 2010, Chapter 276

38 **32B-6-305.1**, as enacted by Laws of Utah 2010, Chapter 276



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

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

42 **32B-1-102. Definitions.**

43 As used in this title:

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

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

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

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

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

51 (a) beer; or

52 (b) liquor.

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

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

55 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

56 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

57 in an amount equal to or greater than .5% of alcohol by volume.

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

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

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

62 (ii) vinegar;

63 (iii) cider;

64 (iv) essence;

65 (v) tincture;

66 (vi) food preparation; or

67 (vii) an over-the-counter medicine.

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

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

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

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

73 (6) "Banquet" means an event:

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

76 (i) hotel;

77 (ii) resort facility;

78 (iii) sports center; or

79 (iv) convention center;

80 (b) for which there is a contract:

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

82 and

83 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
84 provide an alcoholic product at the event; and

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

86 (7) (a) "Bar" means a surface or structure:

87 (i) at which an alcoholic product is:

- 88 (A) stored; or
- 89 (B) dispensed; or
- 90 (ii) from which an alcoholic product is served.
- 91 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 92 place of the surface or structure an alcoholic product is:
- 93 (i) stored; or
- 94 (ii) dispensed.
- 95 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 96 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 97 volume or 3.2% by weight; and
- 98 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 99 (b) "Beer" may or may not contain hops or other vegetable products.
- 100 (c) "Beer" includes a product that:
- 101 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 102 (ii) is referred to as:
- 103 (A) beer;
- 104 (B) ale;
- 105 (C) porter;
- 106 (D) stout;
- 107 (E) lager; or
- 108 (F) a malt or malted beverage.
- 109 (d) "Beer" does not include a flavored malt beverage.
- 110 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 111 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- 112 (10) "Beer retailer" means a business:
- 113 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 114 whether for consumption on or off the business premises; and
- 115 (b) to whom a license is issued:
- 116 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 117 Beer Retailer Local Authority; or
- 118 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,

119 and Chapter 6, Part 7, On-premise Beer Retailer License.

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

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

122 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more

123 retail licensees or off-premise beer retailers.

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

125 (a) a light device;

126 (b) a painting;

127 (c) a drawing;

128 (d) a poster;

129 (e) a sign;

130 (f) a signboard; or

131 (g) a scoreboard.

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

133 (a) beer;

134 (b) heavy beer; or

135 (c) a flavored malt beverage.

136 (14) "Brewery manufacturing license" means a license issued in accordance with

137 Chapter 11, Part 5, Brewery Manufacturing License.

138 (15) "Certificate of approval" means a certificate of approval obtained from the

139 department under Section 32B-11-201.

140 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by

141 a bus company to a group of persons pursuant to a common purpose:

142 (a) under a single contract;

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

144 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other

145 motor vehicle, and a driver to travel together to one or more specified destinations.

146 (17) "Church" means a building:

147 (a) set apart for worship;

148 (b) in which religious services are held;

149 (c) with which clergy is associated; and

- 150 (d) that is tax exempt under the laws of this state.
- 151 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
152 License Act, and Chapter 6, Part 4, Club License.
- 153 (b) "Club license" includes:
- 154 (i) a dining club license;
- 155 (ii) an equity club license;
- 156 (iii) a fraternal club license; or
- 157 (iv) a social club license.
- 158 (19) "Commission" means the Alcoholic Beverage Control Commission created in
159 Section 32B-2-201.
- 160 (20) "Commissioner" means a member of the commission.
- 161 (21) "Community location" means:
- 162 (a) a public or private school;
- 163 (b) a church;
- 164 (c) a public library;
- 165 (d) a public playground; or
- 166 (e) a public park.
- 167 (22) "Community location governing authority" means:
- 168 (a) the governing body of the community location; or
- 169 (b) if the commission does not know who is the governing body of a community
170 location, a person who appears to the commission to have been given on behalf of the
171 community location the authority to prohibit an activity at the community location.
- 172 (23) "Container" means a receptacle that contains an alcoholic product, including:
- 173 (a) a bottle;
- 174 (b) a vessel; or
- 175 (c) a similar item.
- 176 (24) "Convention center" means a facility that is:
- 177 (a) in total at least 30,000 square feet; and
- 178 (b) otherwise defined as a "convention center" by the commission by rule.
- 179 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
180 dining area of a licensed premises where seating is provided to a patron for service of food.

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

- 183 (i) stored; or
- 184 (ii) dispensed.

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

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

- 188 (a) an auditor or inspector; and
- 189 (b) employed by the department.

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

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

195 (30) "Director," unless the context requires otherwise, means the director of the
196 department.

197 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
198 title:

- 199 (a) against a person subject to administrative action; and
- 200 (b) that is brought on the basis of a violation of this title.

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

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

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

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

205 ~~32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and~~]

206 [~~(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of~~
207 ~~the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the~~
208 ~~retail licensee.~~]

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

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

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

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

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

214 [~~(33)~~] (32) "Distillery manufacturing license" means a license issued in accordance
215 with Chapter 11, Part 4, Distillery Manufacturing License.

216 [~~(34)~~] (33) "Distressed merchandise" means an alcoholic product in the possession of
217 the department that is saleable, but for some reason is unappealing to the public.

218 [~~(35)~~] (34) "Educational facility" includes:

219 (a) a nursery school;

220 (b) an infant day care center; and

221 (c) a trade and technical school.

222 [~~(36)~~] (35) "Equity club license" means a license issued in accordance with Chapter 5,
223 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
224 as an equity club license.

225 [~~(37)~~] (36) "Event permit" means:

226 (a) a single event permit; or

227 (b) a temporary beer event permit.

228 [~~(38)~~] (37) "Exempt license" means a license exempt under Section 32B-1-201 from
229 being considered in determining the total number of a retail license that the commission may
230 issue at any time.

231 [~~(39)~~] (38) (a) "Flavored malt beverage" means a beverage:

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

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

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

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

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

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

242 [~~(40)~~] (39) "Fraternal club license" means a license issued in accordance with Chapter

243 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
244 commission as a fraternal club license.

245 ~~[(41)]~~ (40) "Full-service restaurant license" means a license issued in accordance with
246 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

247 ~~[(42)]~~ (41) (a) "Furnish" means by any means to provide with, supply, or give an
248 individual an alcoholic product, by sale or otherwise.

249 (b) "Furnish" includes to:

250 (i) serve;

251 (ii) deliver; or

252 (iii) otherwise make available.

253 ~~[(43)]~~ (42) "Guest" means an individual who meets the requirements of Subsection
254 32B-6-407(9).

255 ~~[(44)]~~ (43) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

273 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

274 Hygienist Practice Act; and

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

276 [~~(45)~~] (44) (a) "Heavy beer" means a product that:

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

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

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

280 [~~(46)~~] (45) "Hotel" is as defined by the commission by rule.

281 [~~(47)~~] (46) "Identification card" means an identification card issued under Title 53,

282 Chapter 3, Part 8, Identification Card Act.

283 [~~(48)~~] (47) "Industry representative" means an individual who is compensated by

284 salary, commission, or other means for representing and selling an alcoholic product of a

285 manufacturer, supplier, or importer of liquor.

286 [~~(49)~~] (48) "Industry representative sample" means liquor that is placed in the

287 possession of the department for testing, analysis, and sampling by a local industry

288 representative on the premises of the department to educate the local industry representative of

289 the quality and characteristics of the product.

290 [~~(50)~~] (49) "Interdicted person" means a person to whom the sale, offer for sale, or
291 furnishing of an alcoholic product is prohibited by:

292 (a) law; or

293 (b) court order.

294 [~~(51)~~] (50) "Intoxicated" means that a person:

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

297 (i) an alcoholic product;

298 (ii) a controlled substance;

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

300 (iv) a combination of Subsections [~~(51)~~] (50)(a)(i) through (iii); and

301 (b) exhibits plain and easily observed outward manifestations of behavior or physical

302 signs produced by the over consumption of an alcoholic product.

303 [~~(52)~~] (51) "Investigator" means an individual who is:

304 (a) a department compliance officer; or

305 (b) a nondepartment enforcement officer.
306 [~~(53)~~] (52) "Invitee" is as defined in Section 32B-8-102.
307 [~~(54)~~] (53) "License" means:
308 (a) a retail license;
309 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
310 Licenses Act;
311 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
312 or
313 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
314 [~~(55)~~] (54) "Licensee" means a person who holds a license.
315 [~~(56)~~] (55) "Limited-service restaurant license" means a license issued in accordance
316 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
317 [~~(57)~~] (56) "Limousine" means a motor vehicle licensed by the state or a local
318 authority, other than a bus or taxicab:
319 (a) in which the driver and a passenger are separated by a partition, glass, or other
320 barrier;
321 (b) that is provided by a business entity to one or more individuals at a fixed charge in
322 accordance with the business entity's tariff; and
323 (c) to give the one or more individuals the exclusive use of the limousine and a driver
324 to travel to one or more specified destinations.
325 [~~(58)~~] (57) (a) (i) "Liquor" means a liquid that:
326 (A) is:
327 (I) alcohol;
328 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
329 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
330 (IV) other drink or drinkable liquid; and
331 (B) (I) contains at least .5% alcohol by volume; and
332 (II) is suitable to use for beverage purposes.
333 (ii) "Liquor" includes:
334 (A) heavy beer;
335 (B) wine; and

336 (C) a flavored malt beverage.
337 (b) "Liquor" does not include beer.
338 [~~(59)~~] (58) "Liquor Control Fund" means the enterprise fund created by Section
339 32B-2-301.
340 [~~(60)~~] (59) "Liquor warehousing license" means a license that is issued:
341 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
342 (b) to a person, other than a licensed manufacturer, who engages in the importation for
343 storage, sale, or distribution of liquor regardless of amount.
344 [~~(61)~~] (60) "Local authority" means:
345 (a) for premises that are located in an unincorporated area of a county, the governing
346 body of a county; or
347 (b) for premises that are located in an incorporated city or a town, the governing body
348 of the city or town.
349 [~~(62)~~] (61) "Lounge or bar area" is as defined by rule made by the commission.
350 [~~(63)~~] (62) "Manufacture" means to distill, brew, rectify, mix, compound, process,
351 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
352 others.
353 [~~(64)~~] (63) "Member" means an individual who, after paying regular dues, has full
354 privileges in an equity club licensee or fraternal club licensee.
355 [~~(65)~~] (64) (a) "Military installation" means a base, air field, camp, post, station, yard,
356 center, or homeport facility for a ship:
357 (i) (A) under the control of the United States Department of Defense; or
358 (B) of the National Guard;
359 (ii) that is located within the state; and
360 (iii) including a leased facility.
361 (b) "Military installation" does not include a facility used primarily for:
362 (i) civil works;
363 (ii) a rivers and harbors project; or
364 (iii) a flood control project.
365 [~~(66)~~] (65) "Minor" means an individual under the age of 21 years.
366 [~~(67)~~] (66) "Nondepartment enforcement agency" means an agency that:

- 367 (a) (i) is a state agency other than the department; or
- 368 (ii) is an agency of a county, city, or town; and
- 369 (b) has a responsibility to enforce one or more provisions of this title.
- 370 ~~[(68)]~~ (67) "Nondepartment enforcement officer" means an individual who is:
- 371 (a) a peace officer, examiner, or investigator; and
- 372 (b) employed by a nondepartment enforcement agency.
- 373 ~~[(69)]~~ (68) (a) "Off-premise beer retailer" means a beer retailer who is:
- 374 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
- 375 Authority; and
- 376 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 377 premises.
- 378 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 379 ~~[(70)]~~ (69) "On-premise banquet license" means a license issued in accordance with
- 380 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
- 381 ~~[(71)]~~ (70) "On-premise beer retailer" means a beer retailer who is:
- 382 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 383 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
- 384 Retailer License; and
- 385 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 386 premises:
- 387 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 388 premises; and
- 389 (ii) on and after March 1, 2012, operating:
- 390 (A) as a tavern; or
- 391 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
- 392 ~~[(72)]~~ (71) "Opaque" means impenetrable to sight.
- 393 ~~[(73)]~~ (72) "Package agency" means a retail liquor location operated:
- 394 (a) under an agreement with the department; and
- 395 (b) by a person:
- 396 (i) other than the state; and
- 397 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package

398 Agency, to sell packaged liquor for consumption off the premises of the package agency.

399 [~~(74)~~] (73) "Package agent" means a person who holds a package agency.

400 [~~(75)~~] (74) "Patron" means an individual to whom food, beverages, or services are sold,
401 offered for sale, or furnished, or who consumes an alcoholic product including:

402 (a) a customer;

403 (b) a member;

404 (c) a guest;

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

406 (e) an individual who receives room service;

407 (f) a resident of a resort;

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

409 or

410 (h) an invitee.

411 [~~(76)~~] (75) "Permittee" means a person issued a permit under:

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

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

414 [~~(77)~~] (76) "Person subject to administrative action" means:

415 (a) a licensee;

416 (b) a permittee;

417 (c) a manufacturer;

418 (d) a supplier;

419 (e) an importer;

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

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

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

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

424 (g) staff of:

425 (i) a person listed in Subsections [~~(77)~~] (76)(a) through (f); or

426 (ii) a package agent.

427 [~~(78)~~] (77) "Premises" means a building, enclosure, or room used in connection with
428 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic

429 product, unless otherwise defined in this title or rules made by the commission.

430 [~~(79)~~] (78) "Prescription" means an order issued by a health care practitioner when:

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

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

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

436 [~~(80)~~] (79) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

443 [~~(81)~~] (80) (a) "Proof of age" means:

444 (i) an identification card;

445 (ii) an identification that:

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

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

449 (C) includes date of birth; and

450 (D) has a picture affixed;

451 (iii) a valid driver license certificate that:

452 (A) includes date of birth;

453 (B) has a picture affixed; and

454 (C) is issued:

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

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

457 (iv) a military identification card that:

458 (A) includes date of birth; and

459 (B) has a picture affixed; or

460 (v) a valid passport.
461 (b) "Proof of age" does not include a driving privilege card issued in accordance with
462 Section 53-3-207.

463 [~~(82)~~] (81) (a) "Public building" means a building or permanent structure that is:

464 (i) owned or leased by:

465 (A) the state; or

466 (B) a local government entity; and

467 (ii) used for:

468 (A) public education;

469 (B) transacting public business; or

470 (C) regularly conducting government activities.

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

474 [~~(83)~~] (82) "Public conveyance" means a conveyance to which the public or a portion
475 of the public has access to and a right to use for transportation, including an airline, railroad,
476 bus, boat, or other public conveyance.

477 [~~(84)~~] (83) "Reception center" means a business that:

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

479 (b) has as its primary purpose the leasing of the facilities described in Subsection [~~(84)~~]

480 (83)(a) to a third party for the third party's event.

481 [~~(85)~~] (84) "Reception center license" means a license issued in accordance with
482 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

483 [~~(86)~~] (85) (a) "Record" means information that is:

484 (i) inscribed on a tangible medium; or

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

486 (b) "Record" includes:

487 (i) a book;

488 (ii) a book of account;

489 (iii) a paper;

490 (iv) a contract;

- 491 (v) an agreement;
- 492 (vi) a document; or
- 493 (vii) a recording in any medium.
- 494 ~~[(87)]~~ (86) "Residence" means a person's principal place of abode within Utah.
- 495 ~~[(88)]~~ (87) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 496 ~~[(89)]~~ (88) "Resort" is as defined in Section 32B-8-102.
- 497 ~~[(90)]~~ (89) "Resort facility" is as defined by the commission by rule.
- 498 ~~[(91)]~~ (90) "Resort license" means a license issued in accordance with Chapter 5,
- 499 Retail License Act, and Chapter 8, Resort License Act.
- 500 ~~[(92)]~~ (91) "Restaurant" means a business location:
- 501 (a) at which a variety of foods are prepared;
- 502 (b) at which complete meals are served to the general public; and
- 503 (c) that is engaged primarily in serving meals to the general public.
- 504 ~~[(93)]~~ (92) "Retail license" means one of the following licenses issued under this title:
- 505 (a) a full-service restaurant license;
- 506 (b) a limited-service restaurant license;
- 507 (c) a club license;
- 508 (d) an airport lounge license;
- 509 (e) an on-premise banquet license;
- 510 (f) an on-premise beer license;
- 511 (g) a reception center license; or
- 512 (h) a beer-only restaurant license.
- 513 ~~[(94)]~~ (93) "Room service" means furnishing an alcoholic product to a person in a
- 514 guest room of a:
- 515 (a) hotel; or
- 516 (b) resort facility.
- 517 ~~[(95)]~~ (94) "Serve" means to place an alcoholic product before an individual.
- 518 ~~[(96)]~~ (95) (a) "School" means a building used primarily for the general education of
- 519 minors.
- 520 (b) "School" does not include an educational facility.
- 521 ~~[(97)]~~ (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,

522 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
523 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
524 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
525 the rules made by the commission.

526 ~~[(98)]~~ (97) "Sexually oriented entertainer" means a person who while in a state of
527 seminudity appears at or performs:

- 528 (a) for the entertainment of one or more patrons;
- 529 (b) on the premises of:
 - 530 (i) a social club licensee; or
 - 531 (ii) a tavern;
 - 532 (c) on behalf of or at the request of the licensee described in Subsection ~~[(98)]~~ (97)(b);
 - 533 (d) on a contractual or voluntary basis; and
 - 534 (e) whether or not the person is designated as:
 - 535 (i) an employee;
 - 536 (ii) an independent contractor;
 - 537 (iii) an agent of the licensee; or
 - 538 (iv) a different type of classification.

539 ~~[(99)]~~ (98) "Single event permit" means a permit issued in accordance with Chapter 9,
540 Part 3, Single Event Permit.

541 ~~[(100)]~~ (99) "Small brewer" means a brewer who manufactures less than 60,000 barrels
542 of beer, heavy beer, and flavored malt beverages per year.

543 ~~[(101)]~~ (100) "Social club license" means a license issued in accordance with Chapter
544 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
545 commission as a social club license.

546 ~~[(102)]~~ (101) "Special use permit" means a permit issued in accordance with Chapter
547 10, Special Use Permit Act.

548 ~~[(103)]~~ (102) (a) "Spirituous liquor" means liquor that is distilled.

549 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
550 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

551 ~~[(104)]~~ (103) "Sports center" is as defined by the commission by rule.

552 ~~[(105)]~~ (104) (a) "Staff" means an individual who engages in activity governed by this

553 title:

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

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

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

560 (b) "Staff" includes:

561 (i) an officer;

562 (ii) a director;

563 (iii) an employee;

564 (iv) personnel management;

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

566 (vi) an operator; or

567 (vii) a representative.

568 [~~106~~] (105) "State of nudity" means:

569 (a) the appearance of:

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

571 (ii) a human genital;

572 (iii) a human pubic area; or

573 (iv) a human anus; or

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

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

576 (ii) a human genital;

577 (iii) a human pubic area; or

578 (iv) a human anus.

579 [~~107~~] (106) "State of seminudity" means a state of dress in which opaque clothing
580 covers no more than:

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

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

- 584 (i) with no less than the following at its widest point:
- 585 (A) four inches coverage width in the front of the human body; and
- 586 (B) five inches coverage width in the back of the human body; and
- 587 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

588 ~~[(108)]~~ (107) (a) "State store" means a facility for the sale of packaged liquor:

- 589 (i) located on premises owned or leased by the state; and
- 590 (ii) operated by a state employee.

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

- 592 (i) a package agency;
- 593 (ii) a licensee; or
- 594 (iii) a permittee.

595 ~~[(109)]~~ (108) (a) "Storage area" means an area on licensed premises where the licensee
596 stores an alcoholic product.

597 (b) "Store" means to place or maintain in a location an alcoholic product from which a
598 person draws to prepare an alcoholic product to be furnished to a patron~~[-except as provided in~~
599 ~~Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or~~
600 ~~32B-6-905(12)(b)(ii)].~~

601 ~~[(110)]~~ (109) "Sublicense" is as defined in Section 32B-8-102.

602 ~~[(111)]~~ (110) "Supplier" means a person who sells an alcoholic product to the
603 department.

604 ~~[(112)]~~ (111) "Tavern" means an on-premise beer retailer who is:

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

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

609 ~~[(113)]~~ (112) "Temporary beer event permit" means a permit issued in accordance with
610 Chapter 9, Part 4, Temporary Beer Event Permit.

611 ~~[(114)]~~ (113) "Temporary domicile" means the principal place of abode within Utah of
612 a person who does not have a present intention to continue residency within Utah permanently
613 or indefinitely.

614 ~~[(115)]~~ "Translucent" means a substance that allows light to pass through, but does not

615 allow an object or person to be seen through the substance.]

616 [~~(H6)~~] (114) "Unsaleable liquor merchandise" means a container that:

617 (a) is unsaleable because the container is:

618 (i) unlabeled;

619 (ii) leaky;

620 (iii) damaged;

621 (iv) difficult to open; or

622 (v) partly filled;

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

624 (ii) has contents that are:

625 (A) cloudy;

626 (B) spoiled; or

627 (C) chemically determined to be impure; or

628 (iii) contains:

629 (A) sediment; or

630 (B) a foreign substance; or

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

632 [~~(H7)~~] (115) (a) "Wine" means an alcoholic product obtained by the fermentation of
633 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
634 not another ingredient is added.

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

637 [~~(H8)~~] (116) "Winery manufacturing license" means a license issued in accordance
638 with Chapter 11, Part 3, Winery Manufacturing License.

639 Section 2. Section **32B-2-301** is amended to read:

640 **32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.**

641 (1) The following are property of the state:

642 (a) the money received in the administration of this title, except as otherwise provided;

643 and

644 (b) property acquired, administered, possessed, or received by the department.

645 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

646 (b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the
647 administration of this title shall be transferred to the Liquor Control Fund.

648 (3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

649 (b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit
650 revenue remitted to the State Tax Commission from the markup imposed under Section
651 32B-2-304 into the Markup Holding Fund.

652 (c) Money deposited into the Markup Holding Fund may be expended:

653 (i) to the extent appropriated by the Legislature; and

654 (ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection
655 32B-2-305(4).

656 (4) (a) ~~[The state treasurer]~~ Subject to Subsection (4)(b), the department shall by
657 warrant draw from the Liquor Control Fund and ~~[-to the extent appropriated by the~~
658 ~~Legislature;]~~ from the Markup Holding Fund, the expenses, debts, and liabilities incurred by
659 the department in connection with the administration of this title or any other expense
660 necessary for the administration of this title ~~[-including;]~~.

661 ~~[(a) salaries;]~~

662 ~~[(b) premiums, if any, on a bond for which the department pays premiums; and]~~

663 ~~[(c) an expenditure incurred in establishing, operating, or maintaining a state store or~~
664 ~~package agency.]~~

665 (b) The department may draw from the Liquor Control Fund or the Markup Holding
666 Fund, only to the extent appropriated by the Legislature or provided for by statute, except that
667 the department may draw by warrant without an appropriation from the Liquor Control Fund or
668 Markup Holding Fund for an expenditure that is directly incurred by the department:

669 (i) to purchase an alcoholic product;

670 (ii) to transport an alcoholic product from the supplier to a warehouse of the
671 department; and

672 (iii) for variances related to an alcoholic product.

673 (5) The department shall transfer annually from the Liquor Control Fund and the State
674 Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a
675 sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer
676 of money under this Subsection (5). The transfers shall be calculated by no later than

677 September 1 and made by no later than September 30 after a fiscal year. The Division of
678 Finance may make year-end closing entries in the Liquor Control Fund and the Markup
679 Holding Fund in order to comply with Subsection 51-5-6(2).

680 (6) (a) By the end of each day, the department shall:

- 681 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
682 (ii) report the deposit to the state treasurer.

683 (b) A commissioner or department employee is not personally liable for a loss caused
684 by the default or failure of a qualified depository.

685 (c) Money deposited in a qualified depository is entitled to the same priority of
686 payment as other public funds of the state.

687 (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
688 drawn against the Liquor Control Fund by the [~~state treasurer~~] department, the cash resources
689 of the General Fund may be used to the extent necessary. At no time may the fund equity of
690 the Liquor Control Fund fall below zero.

691 Section 3. Section **32B-6-205** is amended to read:

692 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

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

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

- 698 (i) a full-service restaurant licensee;
699 (ii) individual staff of a full-service restaurant licensee; or
700 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
701 licensee.

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

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

708 [~~(4)~~] (3) (a) An individual who serves an alcoholic product in a full-service restaurant
709 licensee's premises shall make a written beverage tab for each table or group that orders or
710 consumes an alcoholic product on the premises.

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

713 [~~(5)~~] (4) A person's willingness to serve an alcoholic product may not be made a
714 condition of employment as a server with a full-service restaurant licensee.

715 [~~(6)~~] (5) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish
716 liquor at the licensed premises on any day during the period that:

717 (i) begins at midnight; and

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

719 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
720 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
721 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
722 11:30 a.m. on any day.

723 [~~(7)~~] (6) A full-service restaurant licensee shall maintain at least 70% of its total
724 restaurant business from the sale of food, which does not include:

725 (a) mix for an alcoholic product; or

726 (b) a service charge.

727 [~~(8)~~] (7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
728 alcoholic product except in connection with an order for food prepared, sold, and furnished at
729 the licensed premises.

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

732 [~~(9)~~] (8) (a) Subject to the other provisions of this Subsection [~~(9)~~] (8), a patron may
733 not have more than two alcoholic products of any kind at a time before the patron.

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

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

738 [~~(10)~~] (9) A patron may consume an alcoholic product only:

739 (a) at:
740 (i) the patron's table;

741 (ii) a counter; or

742 (iii) a seating grandfathered bar structure; and

743 (b) where food is served.

744 ~~[(11)]~~ (10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish
745 an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
746 structure that is not a seating grandfathered bar structure.

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

749 (i) sit;

750 (ii) be furnished an alcoholic product; and

751 (iii) consume an alcoholic product.

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

754 (i) sit; or

755 (ii) consume food or beverages.

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

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

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

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

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

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

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

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

770 ~~12, 2009; or]~~
771 ~~[(iii) an area that is:]~~
772 ~~[(A) separated from an area for the consumption of food by a patron by a solid,~~
773 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
774 ~~an alcoholic product are:]~~
775 ~~[(F) not readily visible to a patron; and]~~
776 ~~[(H) not accessible by a patron; and]~~
777 ~~[(B) apart from an area used:]~~
778 ~~[(f) for dining;]~~
779 ~~[(H) for staging; or]~~
780 ~~[(H) as a lobby or waiting area;]~~
781 ~~[(b) the full-service restaurant licensee uses an alcoholic product that is:]~~
782 ~~[(i) stored in an area described in Subsection (12)(a); or]~~
783 ~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~
784 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
785 ~~container;]~~
786 ~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
787 ~~it is opened; and]~~
788 ~~[(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
789 ~~and]~~
790 ~~[(c) any instrument or equipment used to dispense alcoholic product is located in an~~
791 ~~area described in Subsection (12)(a).]~~
792 ~~[(13)]~~ (11) A full-service restaurant licensee may state in a food or alcoholic product
793 menu a charge or fee made in connection with the sale, service, or consumption of liquor
794 including:
795 (a) a set-up charge;
796 (b) a service charge; or
797 (c) a chilling fee.
798 Section 4. Section **32B-6-305** is amended to read:
799 **32B-6-305. Specific operational requirements for a limited-service restaurant**
800 **license.**

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

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

- 806 (i) a limited-service restaurant licensee;
- 807 (ii) individual staff of a limited-service restaurant licensee; or
- 808 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
809 licensee.

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

- 812 (i) spirituous liquor; or
- 813 (ii) a flavored malt beverage.

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

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

818 [~~3~~] In addition to complying with Section 32B-5-303, a limited-service restaurant
819 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).]

820 [~~4~~] (3) (a) An individual who serves an alcoholic product in a limited-service
821 restaurant licensee's premises shall make a written beverage tab for each table or group that
822 orders or consumes an alcoholic product on the premises.

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

825 [~~5~~] (4) A person's willingness to serve an alcoholic product may not be made a
826 condition of employment as a server with a limited-service restaurant licensee.

827 [~~6~~] (5) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
828 wine or heavy beer at the licensed premises on any day during the period that:

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

831 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during

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

835 ~~[(7)]~~ (6) A limited-service restaurant licensee shall maintain at least 70% of its total
836 restaurant business from the sale of food, which does not include a service charge.

837 ~~[(8)]~~ (7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
838 an alcoholic product except in connection with an order for food prepared, sold, and furnished
839 at the licensed premises.

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

842 ~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may
843 not have more than two alcoholic products of any kind at a time before the patron.

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

846 ~~[(10)]~~ (9) A patron may consume an alcoholic product only:

847 (a) at:

848 (i) the patron's table;

849 (ii) a counter; or

850 (iii) a seating grandfathered bar structure; and

851 (b) where food is served.

852 ~~[(11)]~~ (10) (a) A limited-service restaurant licensee may not sell, offer for sale, or
853 furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at
854 a bar structure that is not a seating grandfathered bar structure.

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

857 (i) sit;

858 (ii) be furnished an alcoholic product; and

859 (iii) consume an alcoholic product.

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

862 (i) sit; or

863 (ii) consume food or beverages.

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

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

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

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

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

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

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

876 [~~(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at~~
877 ~~the grandfathered bar structure if that area is used to dispense an alcoholic product as of May~~
878 ~~12, 2009; or]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

900 ~~[(13)]~~ (11) A limited-service restaurant licensee may state in a food or alcoholic
901 product menu a charge or fee made in connection with the sale, service, or consumption of
902 wine or heavy beer including:

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

906 Section 5. Section **32B-6-703** is amended to read:

907 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

908 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
909 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
910 beer retailer license from the commission in accordance with this part.

911 (2) (a) The commission may issue an on-premise beer retailer license to establish
912 on-premise beer retailer licensed premises at places and in numbers as the commission
913 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
914 premises operated as an on-premise beer retailer.

915 (b) At the time that the commission issues an on-premise beer retailer license, the
916 commission shall designate whether the on-premise beer retailer is a tavern.

917 (c) The commission may change its designation of whether an on-premise beer retailer
918 is a tavern in accordance with rules made by the commission.

919 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
920 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
921 beer for consumption on the establishment's premises.

922 (ii) In making a determination under this Subsection (2)(d), the commission shall
923 consider:

924 (A) whether the on-premise beer retailer will operate as one of the following:

- 925 (I) a beer bar;
- 926 (II) a parlor;
- 927 (III) a lounge;
- 928 (IV) a cabaret; or
- 929 (V) a nightclub;
- 930 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 931 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 932 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 933 will exceed the revenue of the sale of food;
- 934 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 935 (D) the square footage and seating capacity of the premises;
- 936 (E) what portion of the square footage and seating capacity will be used for a dining
- 937 area in comparison to the portion that will be used as a lounge or bar area;
- 938 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 939 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 940 the culinary facilities of the hotel or resort facility;
- 941 (G) whether the entertainment provided on the premises of the beer retailer will be
- 942 suitable for minors; and
- 943 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 944 retailer license including:
- 945 (I) management experience;
- 946 (II) past beer retailer management experience; and
- 947 (III) the type of management scheme that will be used by the beer retailer.
- 948 (e) On or after March 1, 2012:
- 949 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
- 950 (A) maintain at least 70% of the person's total gross revenues from business directly
- 951 related to a recreational amenity on or directly adjoining the licensed premises of the beer
- 952 retailer; or
- 953 (B) have a recreational amenity on or directly adjoining the licensed premises of the
- 954 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
- 955 food.

956 (ii) The commission may not license a person as an on-premise beer retailer if the
957 person does not:

958 (A) meet the requirements of Subsection (2)(e)(i); or

959 (B) operate as a tavern.

960 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
961 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
962 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
963 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

964 (B) If an on-premise beer retailer fails to notify the department as required by
965 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
966 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
967 retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an
968 on-premise beer retailer license that is not a tavern and does not meet the requirements of
969 Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).

970 ~~[(iv) A person who, after August 1, 2011, applies for an on-premise beer retailer
971 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
972 have or construct facilities for the dispensing or storage of an alcoholic product that do not
973 meet the requirements of Subsection 32B-6-905(12)(a)(ii).]~~

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

975 (a) The commission may not issue a total number of on-premise beer retailer licenses
976 that are taverns that at any time exceeds the number determined by dividing the population of
977 the state by 54,147.

978 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
979 in accordance with Section 32B-5-206.

980 (4) (a) Unless otherwise provided in Subsection (4)(b):

981 (i) only one on-premise beer retailer license is required for each building or resort
982 facility owned or leased by the same person; and

983 (ii) a separate license is not required for each retail beer dispensing location in the
984 same building or on the same resort premises owned or operated by the same person.

985 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
986 building or resort facility operates in the same manner.

- 987 (ii) If each retail beer dispensing location does not operate in the same manner:
- 988 (A) one on-premise beer retailer license designated as a tavern is required for the
- 989 locations in the same building or on the same resort premises that operate as a tavern; and
- 990 (B) one on-premise beer retailer license is required for the locations in the same
- 991 building or on the same resort premises that do not operate as a tavern.

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

993 **32B-6-805. Specific operational requirements for a reception center license.**

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

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

- 999 (i) a reception center licensee;
- 1000 (ii) individual staff of a reception center licensee; or
- 1001 (iii) both a reception center licensee and staff of the reception center licensee.

1002 [~~(2) In addition to complying with Section 32B-5-303, a reception center licensee shall~~
1003 ~~store an alcoholic product in a storage area described in Subsection (15)(a).]~~

1004 [~~(3)~~] (2) (a) For the purpose described in Subsection [~~(3)~~] (2)(b), a reception center
1005 licensee shall provide the following with advance notice of a scheduled event in accordance
1006 with rules made by the commission:

- 1007 (i) the department; and
- 1008 (ii) the local law enforcement agency responsible for the enforcement of this title in the
- 1009 jurisdiction where the reception center is located.

1010 (b) Any of the following may conduct a random inspection of an event:

- 1011 (i) an authorized representative of the commission or the department; or
- 1012 (ii) a law enforcement officer.

1013 [~~(4)~~] (3) (a) Except as otherwise provided in this title, a reception center licensee may
1014 sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the
1015 reception center's licensed premises.

1016 (b) A host of an event, a patron, or a person other than the reception center licensee or
1017 staff of the reception center licensee, may not remove an alcoholic product from the reception

1018 center's licensed premises.

1019 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an
1020 alcoholic product into or onto, or remove an alcoholic product from, the reception center.

1021 ~~[(5)]~~ (4) (a) A reception center licensee may not leave an unsold alcoholic product at an
1022 event following the conclusion of the event.

1023 (b) At the conclusion of an event, a reception center licensee shall:

1024 (i) destroy an opened and unused alcoholic product that is not saleable, under
1025 conditions established by the department; and

1026 (ii) return to the reception center licensee's approved locked storage area any:

1027 (A) opened and unused alcoholic product that is saleable; and

1028 (B) unopened container of an alcoholic product.

1029 (c) Except as provided in Subsection ~~[(5)]~~ (4)(b) with regard to an open or sealed
1030 container of an alcoholic product not sold or consumed at an event, a reception center
1031 licensee ~~[(i) shall store the alcoholic product in accordance with Subsection (2); and (ii)]~~ may
1032 use the alcoholic product at more than one event.

1033 ~~[(6)]~~ (5) Notwithstanding Section 32B-5-308, a reception center licensee may not
1034 employ a minor in connection with an event at the reception center at which food is not made
1035 available.

1036 ~~[(7)]~~ (6) A person's willingness to serve an alcoholic product may not be made a
1037 condition of employment as a server with a reception center licensee.

1038 ~~[(8)]~~ (7) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
1039 product at the licensed premises on any day during the period that:

1040 (a) begins at 1 a.m.; and

1041 (b) ends at 9:59 a.m.

1042 ~~[(9)]~~ (8) (a) A reception center licensee may not maintain in excess of 30% of its total
1043 annual receipts from the sale of an alcoholic product, which includes:

1044 (i) mix for an alcoholic product; or

1045 (ii) a charge in connection with the furnishing of an alcoholic product.

1046 (b) A reception center licensee shall report the information necessary to show
1047 compliance with this Subsection ~~[(9)]~~ (8) to the department on an annual basis.

1048 ~~[(10)]~~ (9) A reception center licensee may not sell, offer for sale, or furnish an

1049 alcoholic product at an event at which a minor is present unless the reception center licensee
1050 makes food available at all times when an alcoholic product is sold, offered for sale, furnished,
1051 or consumed during the event.

1052 ~~[(11)]~~ (10) (a) Subject to the other provisions of this Subsection ~~[(11)]~~ (10), a patron
1053 may not have more than two alcoholic products of any kind at a time before the patron.

1054 (b) An individual portion of wine is considered to be one alcoholic product under
1055 Subsection ~~[(11)]~~ (10)(a).

1056 ~~[(12)]~~ (11) (a) A reception center licensee shall supervise and direct a person involved
1057 in the sale, offer for sale, or furnishing of an alcoholic product.

1058 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
1059 shall complete an alcohol training and education seminar.

1060 ~~[(13)]~~ (12) A staff person of a reception center licensee shall remain at an event at all
1061 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

1062 ~~[(14)]~~ (13) A reception center licensee may not sell, offer for sale, or furnish an
1063 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1064 structure.

1065 ~~[(15) Except as provided in Subsection (16), a reception center licensee may dispense~~
1066 ~~an alcoholic product only if:]~~

1067 ~~[(a) the alcoholic product is dispensed from an area that is:]~~

1068 ~~[(i) separated from an area for the consumption of food by a patron by a solid,~~
1069 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
1070 ~~an alcoholic product are:]~~

1071 ~~[(A) not readily visible to a patron; and]~~

1072 ~~[(B) not accessible by a patron; and]~~

1073 ~~[(ii) apart from an area used:]~~

1074 ~~[(A) for staging; or]~~

1075 ~~[(B) as a lobby or waiting area;]~~

1076 ~~[(b) the reception center licensee uses an alcoholic product that is:]~~

1077 ~~[(i) stored in an area described in Subsection (15)(a); or]~~

1078 ~~[(ii) in an area not described in Subsection (15)(a) on the licensed premises and:]~~

1079 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~

1080 container;]

1081 [~~(B)~~ the unopened container is taken to an area described in Subsection (15)(a) before
1082 it is opened; and]

1083 [~~(C)~~ once opened, the container is stored in an area described in Subsection (15)(a);
1084 and]

1085 [~~(c)~~ any instrument or equipment used to dispense an alcoholic product is located in an
1086 area described in Subsection (15)(a).]

1087 [~~(16)~~] (14) A reception center licensee may dispense an alcoholic product from a
1088 mobile serving area that:

1089 (a) is moved only by staff of the reception center licensee;

1090 (b) is capable of being moved by only one individual; and

1091 (c) is no larger than 6 feet long and 30 inches wide.

1092 [~~(17)~~] (15) (a) A reception center licensee may not have an event on the licensed
1093 premises except pursuant to a contract between a third party host of the event and the reception
1094 center licensee under which the reception center licensee provides an alcoholic product sold,
1095 offered for sale, or furnished at an event.

1096 (b) At an event, a reception center licensee may furnish an alcoholic product:

1097 (i) without charge to a patron, except that the third party host of the event shall pay for
1098 an alcoholic product furnished at the event; or

1099 (ii) with a charge to a patron at the event.

1100 (c) The commission may by rule define what constitutes a "third-party host" for
1101 purposes of this Subsection [~~(17)~~] (15) so that a reception center licensee and the third-party
1102 host are not owned by or operated by the same persons, except that the rule shall permit a
1103 reception center licensee to host an event for an immediate family member of the reception
1104 center licensee.

1105 [~~(18)~~] (16) A reception center licensee shall have culinary facilities that are:

1106 (a) adequate to prepare a full meal; and

1107 (b) (i) located on the licensed premises; or

1108 (ii) under the same control as the reception center licensee.

1109 [~~(19)~~] (17) (a) Except as provided in Subsection [~~(19)~~] (17)(b), a reception center
1110 licensee may not operate an event:

- 1111 (i) that is open to the general public; and
- 1112 (ii) at which an alcoholic product is sold or offered for sale.
- 1113 (b) A reception center licensee may operate an event described in Subsection [(+9)]
- 1114 (17)(a) if the event is hosted:
- 1115 (i) at the reception center no more frequently than once a calendar year; and
- 1116 (ii) by a nonprofit organization that is organized and qualified under Section 501(c),
- 1117 Internal Revenue Code.

1118 Section 7. Section **32B-6-902** is amended to read:

1119 **32B-6-902. Definitions.**

1120 (1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a
1121 licensed premises of a beer-only restaurant licensee that~~[(i) was licensed as an on-premise~~
1122 ~~beer retailer as of August 1, 2011, and as of August 1, 2011. (A) is operational; (B) has~~
1123 ~~facilities for the dispensing or storage of an alcoholic product that do not meet the requirements~~
1124 ~~of Subsection 32B-6-905(12)(a)(ii); and (C) in accordance with Subsection 32B-6-703(2)(e),~~
1125 ~~notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will~~
1126 ~~seek to be licensed as a beer-only restaurant; or (ii)] is a bar structure grandfathered under~~
1127 Section 32B-6-409.

1128 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
1129 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
1130 grandfathered bar structure, as defined by rule made by the commission.

1131 (2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
1132 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

1133 Section 8. Section **32B-6-905** is amended to read:

1134 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

1135 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1136 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
1137 shall comply with this section.

1138 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1139 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1140 (i) a beer-only restaurant licensee;
- 1141 (ii) individual staff of a beer-only restaurant licensee; or

1142 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

1143 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
1144 sale, furnish, or allow consumption of liquor.

1145 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

1146 (i) as a flavoring on a dessert; and

1147 (ii) in the preparation of a flaming food dish, drink, or dessert.

1148 [~~(3)~~] In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
1149 shall store beer in a storage area described in Subsection (12)(a).]

1150 [~~(4)~~] (3) (a) An individual who serves beer in a beer-only restaurant licensee's premises
1151 shall make a written beverage tab for each table or group that orders or consumes an alcoholic
1152 product on the premises.

1153 (b) A beverage tab required by this Subsection [~~(4)~~] (3) shall list the type and amount
1154 of beer ordered or consumed.

1155 [~~(5)~~] (4) A person's willingness to serve beer may not be made a condition of
1156 employment as a server with a beer-only restaurant licensee.

1157 [~~(6)~~] (5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during
1158 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1159 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1160 11:30 a.m. on any day.

1161 [~~(7)~~] (6) A beer-only restaurant licensee shall maintain at least 70% of its total
1162 restaurant business from the sale of food, which does not include a service charge.

1163 [~~(8)~~] (7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except in
1164 connection with an order for food prepared, sold, and furnished at the licensed premises.

1165 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1166 facilities for food preparation and dining accommodations.

1167 [~~(9)~~] (8) A patron may not have more than two beers at a time before the patron.

1168 [~~(10)~~] (9) A patron may consume a beer only:

1169 (a) at:

1170 (i) the patron's table;

1171 (ii) a grandfathered bar structure; or

1172 (iii) a counter; and

1173 (b) where food is served.
 1174 ~~[(11)]~~ (10) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a
 1175 beer to a patron, and a patron may not consume an alcoholic product at a bar structure.

1176 (b) Notwithstanding Subsection ~~[(11)]~~ (10)(a), at a grandfathered bar structure, a
 1177 patron who is 21 years of age or older may:

- 1178 (i) sit;
- 1179 (ii) be furnished a beer; and
- 1180 (iii) consume a beer.

1181 (c) Except as provided in Subsection ~~[(11)]~~ (10)(d), at a grandfathered bar structure, a
 1182 beer-only restaurant licensee may not permit a minor to, and a minor may not:

- 1183 (i) sit; or
- 1184 (ii) consume food or beverages.

1185 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
 1186 beer-only restaurant licensee:

- 1187 (A) as provided in Subsection 32B-5-308(2); or
- 1188 (B) to perform maintenance and cleaning services during an hour when the beer-only
 1189 restaurant licensee is not open for business.

1190 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining
 1191 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in
 1192 which the minor is permitted to be.

1193 ~~[(12) A beer-only restaurant licensee may dispense a beer only if:]~~
 1194 ~~[(a) the beer is dispensed from an area that is:]~~
 1195 ~~[(i) a grandfathered bar structure; or]~~
 1196 ~~[(ii) separated from an area for the consumption of food by a patron by a solid,~~
 1197 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
 1198 ~~an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart~~
 1199 ~~from an area used for dining, for staging, or as a lobby or waiting area;]~~

1200 ~~[(b) the beer-only restaurant licensee uses a beer that is:]~~
 1201 ~~[(i) stored in an area described in Subsection (12)(a); or]~~
 1202 ~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~
 1203 ~~[(A) immediately before the beer is dispensed it is in an unopened container;]~~

1204 ~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
1205 ~~it is opened; and]~~

1206 ~~[(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
1207 ~~and]~~

1208 ~~[(c) any instrument or equipment used to dispense the beer is located in an area~~
1209 ~~described in Subsection (12)(a).]~~

1210 **Section 9. Repealer.**

1211 This bill repeals:

1212 **Section 32B-6-205.1, Credit for grandfathered bar structures of full-service**
1213 **restaurant licensee.**

1214 **Section 32B-6-305.1, Credit for grandfathered bar structures for limited-service**
1215 **restaurant licensee.**