

HB0228S04 compared with HB0228S03

~~{deleted text}~~ shows text that was in HB0228S03 but was deleted in HB0228S04.

inserted text shows text that was not in HB0228S03 but was inserted into HB0228S04.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator John L. Valentine 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 the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses new master licenses under the law enforcement quota;
- ~~{_____} → addresses proximity to community locations;~~
- ~~_____ → modifies how wine is treated in calculating ratio of gross receipts of food to alcoholic product;~~
- ~~‡~~ ▶ addresses the powers and duties of the commission;
- ▶ requires money be appropriated by the Legislature or provided by statute for the

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department to draw from the Liquor Control Fund with limited exceptions;

- ▶ clarifies who makes warrants on the funds;
- ▶ provides for Division of Finance to make year-end closing entries;
- ▶ ~~{creates the Alcoholic Beverage Control Act Legal Fund and deposits certain penalties into the fund;~~
- amends operational requirements for package agencies;
- imposes minimum mandatory penalties related to minors;
- ~~modifies where certain fines are deposited;~~ repeals language regarding a private person conducting audits;
- ▶ requires the state auditor to perform financial audits of the department;
- ▶ requires the state auditor to distribute audits to specified individuals and entities;
- ▶ expands retail licenses eligible for conditional retail licenses and ~~{allows}~~ modifications for a ~~{three-month extension}~~ of the period of a conditional retail license;
- ~~{~~ → ~~addresses multiple retail licenses at the same building;~~
- ~~permits local authorities to impose more restrictive hour requirements for retail licensees;~~
- ~~permits certain alcoholic products to be served in several containers;~~
- ‡ ▶ creates a master full-service restaurant license;
- ▶ creates a master limited-service restaurant license;
- ~~{~~ → ~~imposes a fee for applying to the commission for a change in location;~~
- ‡ ▶ ~~addresses {private events at retail licensee premises;~~
- ~~addresses commission's authority to issue restaurant licenses;~~
- ~~modifies operational requirements for restaurant licensees;~~ guests of fraternal;
- ▶ extends the effective date for the Transfer of Retail License Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

- ~~{This bill appropriates in fiscal year 2014:~~
- ~~to Attorney General - Administration as an ongoing appropriation:~~
- ~~from the Alcoholic Beverage Control Act Legal Fund, \$130,000 to pay for costs associated with the enforcement of Title 32B, Alcoholic Beverage Control~~

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Act. } None

Other Special Clauses:

This bill provides effective dates.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

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

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

~~{ **32B-1-202**, as enacted by Laws of Utah 2010, Chapter 276~~

~~— **32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334~~

{ **32B-2-202**, as last amended by Laws of Utah 2012, Chapter 365

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

~~{ **32B-2-305**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1~~

{ ~~{**32B-2-605**}~~ **32B-2-302**, as last amended by Laws of Utah 2012, Chapter 365

~~{ **32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276~~

{ **32B-5-205**, as enacted by Laws of Utah 2010, Chapter 276

~~{**32B-5-301**}~~ **32B-6-407**, as last amended by Laws of Utah 2011, Chapter ~~{334~~

~~— **32B-5-304**, as last amended by Laws of Utah 2011, Chapters 307 and 334~~

~~— **32B-5-309 (Superseded)**; 297~~

32B-8a-201 (Effective 07/01/13), as enacted by Laws of Utah ~~{2010, Chapter 276~~

~~— **32B-6-203**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1~~

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

~~— **32B-6-303**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1~~

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

~~— **32B-6-903**, as enacted by Laws of Utah 2011, Chapter 334~~

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

~~— **32B-8a-201 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334~~

~~— **32B-9-204**, as last amended by Laws of Utah 2012, Chapter 365~~

~~— **32B-10-206**, as enacted by Laws of Utah 2010, Chapter 276~~

~~— **32B-11-208**, as enacted by Laws of Utah 2010, Chapter 276~~

~~— **32B-12-301**, as enacted by Laws of Utah 2010, Chapter 276~~

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ENACTS:

~~32B-2-307, Utah Code Annotated 1953~~

~~32B-5-207, Utah Code Annotated 1953~~

~~32B-5-311, Utah Code Annotated 1953~~

~~2011, Chapter 334~~

ENACTS:

32B-6-206, Utah Code Annotated 1953

32B-6-306, Utah Code Annotated 1953

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 7, Laws of Utah 2012, Fourth Special Session, Chapter 1

This uncodified section affects Sections 32B-5-309 (Effective 07/01/13) and the sections in Title 32B, Chapter 8a, Transfer of Retail License Act.

Uncodified Section 8, Laws of Utah 2012, Fourth Special Session, Chapter 1

Utah Code Sections Affected by Revisor Instructions:

32B-5-309 (Superseded 07/01/13), as enacted by Laws of Utah 2010, Chapter 276

32B-5-309 (Effective 07/01/13), as last amended by Laws of Utah 2011, Chapter 334

32B-8a-101 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-102 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-201 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-202 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-203 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-301 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-302 (Effective 07/01/13), as last amended by Laws of Utah 2012, Chapter 365

32B-8a-303 (Effective 07/01/13), as last amended by Laws of Utah 2012, Chapter 365

32B-8a-401 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-402 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-403 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-404 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-501 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

32B-8a-502 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

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

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

32B-1-102. Definitions.

As used in this title:

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

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

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

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

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

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

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

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

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

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

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

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

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

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

- (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.

(6) "Banquet" means an event:

- (a) that is held at one or more designated locations approved by the commission in or

on the premises of a:

- (i) hotel;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;

(b) for which there is a contract:

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

and

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

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

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

(i) at which an alcoholic product is:

- (A) stored; or
- (B) dispensed; or

(ii) from which an alcoholic product is served.

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

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

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

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

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

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

(c) "Beer" includes a product that:

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- (i) contains alcohol in the percentages described in Subsection (8)(a); and
- (ii) is referred to as:
 - (A) beer;
 - (B) ale;
 - (C) porter;
 - (D) stout;
 - (E) lager; or
 - (F) a malt or malted beverage.
- (d) "Beer" does not include a flavored malt beverage.
- (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
 - (10) "Beer retailer" means a business:
 - (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
 - (b) to whom a license is issued:
 - (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; or
 - (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License.
 - (11) "Beer wholesaling license" means a license:
 - (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
 - (12) "Billboard" means a public display used to advertise, including:
 - (a) a light device;
 - (b) a painting;
 - (c) a drawing;
 - (d) a poster;
 - (e) a sign;
 - (f) a signboard; or
 - (g) a scoreboard.

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

- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.

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

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

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

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(17) "Church" means a building:

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

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

(b) "Club license" includes:

- (i) a dining club license;
- (ii) an equity club license;
- (iii) a fraternal club license; or
- (iv) a social club license.

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

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

(21) "Community location" means:

- (a) a public or private school;

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

(22) "Community location governing authority" means:

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

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

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

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

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

- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a "convention center" by the commission by rule.

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

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

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

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

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

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

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

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

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dining club license.

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

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

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

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

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

(i) drawing of an alcoholic product:

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

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

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

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

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

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

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

(35) "Educational facility" includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.

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

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(37) "Event permit" means:

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

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

(39) (a) "Flavored malt beverage" means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

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

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

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

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

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

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

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

(b) "Furnish" includes to:

- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.

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

(44) "Health care practitioner" means:

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- (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
 - (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;
 - (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;
 - (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;
 - (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
 - (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
 - (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and
 - (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- (45) (a) "Heavy beer" means a product that:
- (i) contains more than 4% alcohol by volume; and
 - (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) "Heavy beer" is considered liquor for the purposes of this title.
- (46) "Hotel" is as defined by the commission by rule.
- (47) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.
- (48) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.
- (49) "Industry representative sample" means liquor that is placed in the possession of

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the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

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

- (a) law; or
- (b) court order.

(51) "Intoxicated" means that a person:

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

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections (51)(a)(i) through (iii); and

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

(52) "Investigator" means an individual who is:

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

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

(54) "License" means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related

Licenses Act;

(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

or

(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(55) "Licensee" means a person who holds a license.

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

(57) "Limousine" means a motor vehicle licensed by the state or a local authority, other

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than a bus or taxicab:

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

(58) (a) (i) "Liquor" means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

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

(60) "Liquor warehousing license" means a license that is issued:

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

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

(61) "Local authority" means:

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

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

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

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

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

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

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

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

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(66) "Minor" means an individual under the age of 21 years.

(67) "Nondepartment enforcement agency" means an agency that:

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

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

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

(68) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

(69) (a) "Off-premise beer retailer" means a beer retailer who is:

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

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

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

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

(71) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

(A) as a tavern; or

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

(72) "Opaque" means impenetrable to sight.

(73) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

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

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

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

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

or

(h) an invitee.

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

(a) Chapter 9, Event Permit Act; or

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(b) Chapter 10, Special Use Permit Act.

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

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
 - (i) an out-of-state brewer;
 - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
 - (i) a person listed in Subsections (77)(a) through (f); or
 - (ii) a package agent.

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

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

- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(80) (a) "Private event" means a specific social, business, or recreational event:

- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
- (ii) that is limited in attendance to people who are specifically designated and their guests.

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

(81) (a) "Proof of age" means:

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- (i) an identification card;
 - (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
 - (C) includes date of birth; and
 - (D) has a picture affixed;
 - (iii) a valid driver license certificate that:
 - (A) includes date of birth;
 - (B) has a picture affixed; and
 - (C) is issued:
 - (I) under Title 53, Chapter 3, Uniform Driver License Act; or
 - (II) in accordance with the laws of the state in which it is issued;
 - (iv) a military identification card that:
 - (A) includes date of birth; and
 - (B) has a picture affixed; or
 - (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(82) (a) "Public building" means a building or permanent structure that is:

- (i) owned or leased by:
 - (A) the state; or
 - (B) a local government entity; and
- (ii) used for:
 - (A) public education;
 - (B) transacting public business; or
 - (C) regularly conducting government activities.

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

(83) "Public conveyance" means a conveyance to which the public or a portion of the

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public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(84) "Reception center" means a business that:

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

(b) has as its primary purpose the leasing of the facilities described in Subsection

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

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

(86) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

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

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

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

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

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

(90) "Resort facility" is as defined by the commission by rule.

(91) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(92) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served to the general public; and

(c) that is engaged primarily in serving meals to the general public.

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

(a) a full-service restaurant license;

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(b) a master full-service restaurant license;

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

(d) a master limited-service restaurant license;

~~[(c)]~~ (e) a club license;

~~[(d)]~~ (f) an airport lounge license;

~~[(e)]~~ (g) an on-premise banquet license;

~~[(f)]~~ (h) an on-premise beer license;

~~[(g)]~~ (i) a reception center license; ~~[(f)]~~ or ~~[(f)]~~

~~[(h)]~~ (j) a beer-only restaurant license ~~[(f)]~~ ~~[(f)]~~ or ~~[(f)]~~

~~{~~ ~~_____~~ (k) a resort license.

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

(a) hotel; or

(b) resort facility.

(95) "Serve" means to place an alcoholic product before an individual.

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

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

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

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

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

(b) on the premises of:

(i) a social club licensee; or

(ii) a tavern;

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

(d) on a contractual or voluntary basis; and

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

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- (i) an employee;
- (ii) an independent contractor;
- (iii) an agent of the licensee; or
- (iv) a different type of classification.

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

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

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

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

(103) (a) "Spirituous liquor" means liquor that is distilled.

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

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

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

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

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

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

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

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

(vi) an operator; or

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(vii) a representative.

(106) "State of nudity" means:

(a) the appearance of:

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

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

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

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

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(107) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

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

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

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

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

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

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

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

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

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

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

(b) "Store" means to place or maintain in a location an alcoholic product from which a

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person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

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

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

(112) "Tavern" means an on-premise beer retailer who is:

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

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

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

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

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

(116) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

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

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

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(B) a foreign substance; or

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

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

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

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

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

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

(1) As used in this section:

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

(i) the enforcement of this title; or

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

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

(i) determine the quotient equal to the sum of the total number of quota retail licenses available and the total number of licensed premises operating under a master full-service restaurant license or under a master limited-service restaurant license divided by the total number of alcohol-related law enforcement officers; and

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

(c) "Quota retail license" means:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a club license;

(iv) an on-premise banquet license;

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

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(vi) a reception center license.

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

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

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

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

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

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

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

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

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

(a) the most recent United States decennial or special census; or

(b) another population determination made by the United States or state governments.

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

(a) the retail license was issued to a club licensee designated as a dining club as of July

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1, 2011; and

(b) the dining club license is converted to another type of retail license in accordance with Section 32B-6-409.

Section 3. Section ~~{32B-1-202}~~32B-2-202 is amended to read:

~~{~~ ~~32B-1-202. Proximity to community location:~~

~~—— (1) For purposes of this section, "outlet" means:~~

~~—— (a) a state store;~~

~~—— (b) a package agency; or~~

~~—— (c) a retail licensee, except an airport lounge licensee.~~

~~—— (2) Except as otherwise provided in this section, the premises of an outlet may not be located:~~

~~—— (a) within 600 feet of a community location, as measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or~~

~~—— (b) within 200 feet of a community location, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the community location.~~

~~—— (3) With respect to the location of an outlet, the commission may authorize a variance to reduce the proximity requirement of Subsection (2) if:~~

~~—— (a) when the variance reduces the proximity requirement of Subsection (2)(b), the community location at issue is:~~

~~—— (i) a public library; or~~

~~—— (ii) a public park;~~

~~—— (b) except with respect to a state store, the local authority gives its written consent to the variance;~~

~~—— (c) the commission finds that alternative locations for locating that type of outlet in the community are limited;~~

~~—— (d) a public hearing is held in the city, town, or county, and when practical in the neighborhood concerned;~~

~~—— (e) after giving full consideration to the attending circumstances and the policies stated in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that location would not be detrimental to the public health, peace, safety, and welfare of the~~

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community;

~~—— (f) (i) the community location governing authority gives its written consent to the variance; or~~

~~—— (ii) if the community location governing authority does not give its written consent to a variance, the commission finds the following for a state store, or if the outlet is a package agency or retail licensee, the commission finds that the applicant establishes the following:~~

~~—— (A) there is substantial unmet public demand to consume an alcoholic product:~~

~~—— (I) within the geographic boundary of the local authority in which the outlet is to be located; and~~

~~—— (H) for an outlet that is a retail licensee, in a public setting;~~

~~—— (B) there is no reasonably viable alternative for satisfying the substantial unmet demand other than through locating that type of outlet in that location; and~~

~~—— (C) there is no reasonably viable alternative location within the geographic boundary of the local authority in which the outlet is to be located for locating that type of outlet to satisfy the unmet demand:~~

~~—— (4) With respect to the premises of a package agency or retail licensee that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (2) in considering whether to issue the package agency or same type of retail license to the new owner of the premises if:~~

~~—— (a) the premises previously received a variance reducing the proximity requirement of Subsection (2)(a);~~

~~—— (b) the premises received a variance reducing the proximity requirement of Subsection (2)(b) on or before May 4, 2008; or~~

~~—— (c) a variance from proximity requirements was otherwise allowed under this title:~~

~~—— (5) The commission may grant a variance to a person seeking a retail license from the requirements of Subsection (2)(b) if:~~

~~—— (a) the premises to be licensed is located in a city of the fifth class or a town;~~

~~—— (b) on or before May 4, 2008, the premises was licensed;~~

~~—— (c) the operations at the premises to be licensed ceased for a period not to exceed three years; and~~

~~—— (d) the person is operating and otherwise qualified to obtain the retail license that the~~

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person is seeking.

~~— [(5)] (6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.~~

~~— Section 4. Section 32B-1-207 is amended to read:~~

~~— **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**~~

~~— In calculating the annual gross receipts of a retail license or sublicense for purposes of determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food or an alcoholic product, a retail licensee may not include in the calculation the money from the sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of [\$250] \$100.~~

~~— Section 5. Section 32B-2-202 is amended to read:~~

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

(1) The commission shall:

(a) ~~{}~~ consistent with ~~{}~~ subject to the policy established by the Legislature by statute, act as a general ~~{}~~ policymaking ~~{}~~ administrative body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures ~~{}~~ to the extent expressly authorized by this title;

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

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

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

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

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

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

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- ~~[(iii)]~~ (iv) a limited-service restaurant license;
- (v) a master limited-service restaurant license;
- ~~[(iv)]~~ (vi) a club license;
- ~~[(v)]~~ (vii) an airport lounge license;
- ~~[(vi)]~~ (viii) an on-premise banquet license;
- ~~[(vii)]~~ (ix) a resort license, under which four or more sublicenses may be included;
- ~~[(viii)]~~ (x) an on-premise beer retailer license;
- ~~[(ix)]~~ (xi) a reception center license;
- ~~[(x)]~~ (xii) a beer-only restaurant license;
- ~~[(xi)]~~ (xiii) subject to Subsection (4), a single event permit;
- ~~[(xii)]~~ (xiv) subject to Subsection (4), a temporary beer event permit;
- ~~[(xiii)]~~ (xv) a special use permit;
- ~~[(xiv)]~~ (xvi) a manufacturing license;
- ~~[(xv)]~~ (xvii) a liquor warehousing license;
- ~~[(xvi)]~~ (xviii) a beer wholesaling license; and
- ~~[(xvii)]~~ (xix) one of the following that holds a certificate of approval:
 - (A) an out-of-state brewer;
 - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke ~~[one of the following]~~ conditional licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product~~[+]~~;
 - ~~[(i) a conditional full-service restaurant license; or~~
 - ~~[(ii) a conditional limited-service restaurant license;]~~
 - (g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;
 - (h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;
 - (i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;
 - (j) issue and distribute price lists showing the price to be paid by a purchaser for each

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class, variety, or brand of liquor kept for sale by the department;

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

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

(A) sound management principles are being followed; and

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

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

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

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

(i) considered expedient; and

(ii) approved by the governor;

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

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

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

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

(a) establish a state store;

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

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

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

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

~~(5) Notwithstanding the other provisions of this title, the commission may not waive or~~

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~~vary the requirements imposed under this title, including licensing and operational requirements, except when this title expressly grants the commission authority to waive or vary the requirements:~~

‡ Section ~~{6}~~4. Section **32B-2-301** is amended to read:

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

(1) The following are property of the state:

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

and

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

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

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

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

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

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

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

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

~~[(4) The state treasurer { } shall by warrant draw from the Liquor Control Fund and, to the extent appropriated by the Legislature, from the Markup Holding Fund, the expenses, debts, and liabilities incurred by the department in connection with the administration of this title or any other expense necessary for the administration of this title, including:]~~

~~[(a) salaries;]~~

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

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

(4) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant without an appropriation from the Liquor Control Fund for an expenditure that is

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directly incurred by the department:

(a) to purchase an alcoholic product;

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

(c) for variances related to an alcoholic product.

(5) The department shall transfer annually from the Liquor Control Fund and the State Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5). The transfers shall be calculated by no later than September 1 and made by no later than September 30 after a fiscal year. The Division of Finance may make year-end closing entries in the Liquor Control Fund and the Markup Holding Fund in order to comply with Subsection 51-5-6(2).

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

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

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

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

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

Section 5. Section 32B-2-302 is amended to read:

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

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

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

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(2) The state auditor shall:

(a) ~~select a private person to~~ annually perform a financial audit of the department's accounts ~~subject to the commission approving the private person selected to perform the financial audit~~; and

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

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

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

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

(b) ethics and statutory compliance.

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

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

(a) the governor;

(b) the Legislative Management Committee;

(c) the director; and

(d) the legislative auditor general.

Section ~~{7}~~6. Section ~~{32B-2-305}~~32B-5-205 is amended to read:

~~{~~ **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

~~_____~~ (1) As used in this section:

~~_____~~ (a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

~~_____~~ (b) "Enforcement ratio" is as defined in Section 32B-1-201.

~~_____~~ (c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

~~_____~~ (2) There is created a restricted special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

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~~—— (3) (a) The fund consists of:~~

~~—— (i) deposits made under Subsection (4); [and]~~

~~—— (ii) deposits made under Subsection 32B-3-205(3); and~~

~~—— [(ii)] (iii) interest earned on the fund.~~

~~—— (b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.~~

~~—— (4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5):~~

~~—— (5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.~~

~~—— (b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.~~

~~—— Section 8. Section 32B-2-307 is enacted to read:~~

~~—— **32B-2-307. Alcoholic Beverage Control Act Legal Fund.**~~

~~—— (1) As used in this section, "fund" means the Alcoholic Beverage Control Act Legal Fund created in this section.~~

~~—— (2) There is created a restricted special revenue fund known as the "Alcoholic Beverage Control Act Legal Fund."~~

~~—— (3) (a) The fund consists of:~~

~~—— (i) deposits made under Section 32B-3-205; and~~

~~—— (ii) interest earned on the fund.~~

~~—— (b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.~~

~~—— (4) The Office of the Attorney General shall expend money from the fund to supplement appropriations by the Legislature to fund enforcement of this title.~~

~~—— Section 9. Section 32B-2-605 is amended to read:~~

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

~~—— (1) (a) A person may not operate a package agency until a package agency agreement is~~

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~~entered into by the package agent and the department.~~

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

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

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

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

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

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

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

~~—— (i) the package agent; or~~

~~—— (ii) an individual designated by the package agent.~~

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

~~—— (i) an employee of the package agent; and~~

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

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

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

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

~~—— (f) A package agent shall:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (a) a minor;~~

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

~~—— (c) a known interdicted person; or~~

~~—— (d) a known habitual drunkard.~~

~~—— (9) (a) A package agency may not employ a minor to handle liquor:~~

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

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

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

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

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

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

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

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

~~—— (c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days:~~

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

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

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

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

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

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

~~—— (e) Failure of a package agency to provide notice and to obtain department~~

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~~authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately:~~

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

~~—— (11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission. A package agency shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (11).~~

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

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

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

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

~~—— (A) on Sunday; or~~

~~—— (B) on a state or federal legal holiday.~~

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

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

~~—— (i) the package agency is located [at] on the same parcel as a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;~~

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

~~—— (A) a full-service restaurant license;~~

~~—— (B) a limited-service restaurant license;~~

~~—— (C) a beer-only restaurant license; or~~

~~—— (D) dining club license;~~

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

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

~~—— (v) the manufacturing facility:~~

~~—— (A) owns the restaurant or dining club; or~~

~~—— (B) operates the restaurant or dining club;~~

~~—— (vi) the package agency only sells an alcoholic product produced [at] by the manufacturing [facility] licensee; and~~

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

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

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

~~—— (d) As used in this Subsection (13), "parcel" means an identifiable single unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.~~

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

~~—— (i) 21 years of age or older; and~~

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

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

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

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

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

~~—— (c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package~~

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~~agency if the minor or person fails to provide any information specified in Subsection (14)(b):~~

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

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

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

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

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

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

~~—— (iii) subject to:~~

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

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

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

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

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

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

~~—— (a) physical facilities;~~

~~—— (b) conditions of operation;~~

~~—— (c) hours of operation;~~

~~—— (d) inventory levels;~~

~~—— (e) payment schedules;~~

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- ~~—— (f) methods of payment;~~
- ~~—— (g) premises security; and~~
- ~~—— (h) any other matter considered appropriate by the commission.~~
- ~~—— Section 10. Section **32B-3-205** is amended to read:~~
- ~~—— **32B-3-205. Penalties.**~~
- ~~—— (1) If the commission is satisfied that a person subject to administrative action violates this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:~~
 - ~~—— (a) suspend or revoke the person's license, permit, or certificate of approval;~~
 - ~~—— (b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;~~
 - ~~—— (c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or~~
 - ~~—— (d) take a combination of actions described in this Subsection (1).~~
- ~~—— (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:~~
 - ~~—— (i) a single notice of agency action; or~~
 - ~~—— (ii) a single action against a package agency.~~
- ~~—— (b) The commission shall by rule establish a schedule setting forth a range of fines for each violation.~~
- ~~—— (3) [The] (a) Except as provided in Subsection (3)(b), the commission shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.~~
- ~~—— (b) Fines assessed under Subsections (11) and (12) shall be deposited as follows:~~
 - ~~—— (i) \$130,000 into the Alcoholic Beverage Control Act Legal Fund created in Section 32B-2-307; and~~
 - ~~—— (ii) the remainder of the money into the Alcoholic Beverage Control Act Enforcement Fund created in Section 32B-2-305.~~
- ~~—— (4) (a) If a license or permit is suspended under this section, the licensee or permittee shall prominently display a sign provided by the department:~~
 - ~~—— (i) during the suspension; and~~
 - ~~—— (ii) at the entrance of the premises of the licensee or permittee.~~

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~~—— (b) The sign required by this Subsection (4) shall:~~

~~—— (i) read "The Utah Alcoholic Beverage Control Commission has suspended the alcoholic product license or permit of this establishment. An alcoholic product may not be sold, offered for sale, furnished, or consumed on these premises during the period of suspension."; and~~

~~—— (ii) include the dates of the suspension period.~~

~~—— (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to be displayed under this Subsection (4) during the suspension period.~~

~~—— (5) (a) If a license or permit is revoked, the commission may order the revocation of a bond posted by the licensee or permittee under this title:~~

~~—— (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first revoking the license or permit.~~

~~—— (6) A licensee or permittee whose license or permit is revoked may not reapply for a license or permit under this title for three years from the date on which the license or permit is revoked.~~

~~—— (7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized by this title, the commission may prohibit the staff member from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.~~

~~—— (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition to other penalties prescribed by this title, the commission may order:~~

~~—— (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's from the department's sales list; and~~

~~—— (ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.~~

~~—— (b) The commission may take the action described in Subsection (8)(a) if:~~

~~—— (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates this title; and~~

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~~—— (ii) the manufacturer, supplier, or importer:~~

~~—— (A) directly commits the violation; or~~

~~—— (B) solicits, requests, commands, encourages, or intentionally aids another to engage in the violation.~~

~~—— (9) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take an action against the brewer holding a certificate of approval that the commission could take against a licensee including:~~

~~—— (a) suspension or revocation of the certificate of approval; and~~

~~—— (b) imposition of a fine.~~

~~—— (10) Notwithstanding the other provisions of this title, the commission may not order a disciplinary action or fine in accordance with this section if the disciplinary action or fine is ordered on the basis of a violation:~~

~~—— (a) of a provision in this title related to intoxication or becoming intoxicated; and~~

~~—— (b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or service.~~

~~—— (11) (a) The commission shall impose, at a minimum, the following penalties for a violation related to service of an alcoholic product to a minor that occurs during an operation under Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons, or similar operation by a peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications:~~

~~—— (i) for a first violation:~~

~~—— (A) a mandatory minimum fine of \$1,500; and~~

~~—— (B) mandatory training under Chapter 5, Part 4, Alcohol Training and Education Act, of anyone who is required to be trained under Chapter 5, Part 4, but who has completed the training more than 11 months before the day on which the fine described in Subsection (11)(a)(i)(A) is imposed;~~

~~—— (ii) for a second violation that occurs within 18 months of the day on which the penalty is imposed for the first violation:~~

~~—— (A) a mandatory minimum suspension of five days, served in successive days, including a weekend; and~~

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~~— (B) a mandatory minimum fine of \$3,000; and~~

~~— (iii) for a third violation that occurs within three years of the day on which the penalty is imposed for the first violation;~~

~~— (A) a mandatory minimum suspension of 14 days, served in successive days, including two weekends; and~~

~~— (B) a mandatory minimum fine of \$10,000;~~

~~— (b) The commission may not waive the penalties imposed under this Subsection (11);~~

~~— (12) (a) For a violation of Section 32B-1-407 or admitting a minor to a place where an alcoholic product is sold or consumed, but where under this title a minor is not permitted, that occurs during an operation under Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons, or similar operation by a peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications, the commission shall impose, at a minimum, a suspension of five days or a fine of \$1,000;~~

~~— (b) The commission may not waive the penalties imposed under this Subsection (12);~~

~~— Section 11. Section **32B-5-205** is amended to read:~~

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

(1) As used in this section:

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

~~[(i) is for one of the following:]~~

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

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

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

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

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

(2) Subject to the requirements of this section, the commission may issue a conditional

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retail license to a person if the person:

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

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

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

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

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

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

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

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

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

(b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional three months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:

(i) has an active building permit related to the licensed premises; and

(ii) is engaged in a good faith effort to pursue completion within the three-month period.

Section ~~{12}~~ 7. Section ~~{32B-5-207}~~ 32B-6-206 is enacted to read:

~~{~~ ~~32B-5-207. Multiple retail licenses at same building.~~

~~_____~~ ~~(1) (a) The commission may not issue to one or more retail licensees more than one type of retail license for the same building unless the commission determines that:~~

~~_____~~ ~~(i) the licensed premises for each retail license is in a separate room within the building; and~~

~~_____~~ ~~(ii) the requirements for each retail license are met.~~

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~~—— (b) The commission may define "separate room" by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~—— (2) Notwithstanding Subsection (1), the commission may issue more than one type of retail license for the same room if:~~

~~—— (a) each retail license operates at a different day or time;~~

~~—— (b) the requirements for each retail license are met; and~~

~~—— (c) the types of retail licenses issued are:~~

~~—— (i) (A) on-premise beer retailer license associated with a ski resort;~~

~~—— (B) a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license; and~~

~~—— (C) an on-premise banquet catering license; or~~

~~—— (ii) (A) a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license; and~~

~~—— (B) an on-premise banquet license.~~

~~—— (3) (a) If on May 14, 2013, a building has more than one type of retail license within the building in a manner that violates Subsection (1) or (2), the one or more retail licensees may operate under the different types of retail licenses until January 1, 2015.~~

~~—— (b) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the process to be followed to determine which retail license described in Subsection (2) may continue to operate within the building on and after January 1, 2015.~~

~~—— Section 13. Section **32B-5-301** is amended to read:~~

~~—— **32B-5-301. General operational requirements.**~~

~~—— (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license.~~

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

~~—— (i) a retail licensee;~~

~~—— (ii) individual staff of a retail licensee; or~~

~~—— (iii) both a retail licensee and staff of the retail licensee.~~

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~~—— (2) (a) If there is a conflict between this part and the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license, the relevant part under Chapter 6 governs.~~

~~—— (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.~~

~~—— (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail License Act, refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.~~

~~—— (3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.~~

~~—— (b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:~~

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

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

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

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

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

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

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

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

~~—— (4) A retail licensee may not on the licensed premises:~~

~~—— (a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;~~

~~—— (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,~~

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~~Part 11, Gambling; or~~

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

~~—— (5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:~~

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

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

~~—— (6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:~~

~~—— (a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and~~

~~—— (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:~~

~~—— (i) the entire premises of the retail licensee; and~~

~~—— (ii) the records of the retail licensee.~~

~~—— (7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:~~

~~—— (a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and~~

~~—— (b) ending at the time specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.~~

~~—— (8) (a) The time period a retail licensee may sell, offer for sale, or furnish an alcoholic product is specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license.~~

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~~_____ (b) Notwithstanding Subsection (8)(a), a local authority may impose more restrictive hours during which a retail licensee may sell, offer for sale, or furnish an alcoholic product.~~

~~_____ Section 14. Section **32B-5-304** is amended to read:~~

~~_____ **32B-5-304. Portions in which alcoholic product may be sold.**~~

~~_____ (1) (a) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:~~

~~_____ [(a)] (i) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following requirements:~~

~~_____ [(i)] (A) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;~~

~~_____ [(ii)] (B) the secondary ingredient may not be the only spirituous liquor in the beverage;~~

~~_____ [(iii)] (C) the retail licensee shall designate a location where flavorings are stored on the floor plan submitted to the department; and~~

~~_____ [(iv)] (D) a flavoring container shall be plainly and conspicuously labeled "flavorings";~~

~~_____ [(b)] (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:~~

~~_____ [(i)] (A) as a flavoring on a dessert; and~~

~~_____ [(ii)] (B) in the preparation of a flaming food dish, drink, or dessert; and~~

~~_____ [(c)] (iii) a patron may have no more than 2.5 ounces of spirituous liquor at a time.~~

~~_____ (b) A retail licensee may sell, offer for sale, or furnish an individual portion of spirituous liquor to a patron in more than one container if:~~

~~_____ (i) the total amount of spirituous liquor in all of the containers does not exceed 1.5 ounces;~~

~~_____ (ii) the retail licensee holds a manufacturing license;~~

~~_____ (iii) the portion is provided in separate containers for educational purposes;~~

~~_____ (iv) no more than six containers are provided at the same time; and~~

~~_____ (v) a patron is offered only one set of containers per day by the retail licensee.~~

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~~—— (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion:~~

~~—— (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one [glass] container if the total amount of wine does not exceed 5 ounces:~~

~~—— (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons:~~

~~—— (ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons:~~

~~—— (3) (a) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter:~~

~~—— (b) A retail licensee may sell, offer for sale, or furnish an individual portion of heavy beer to a patron in more than one container if:~~

~~—— (i) the total amount of heavy beer in all of the containers does not exceed 12 ounces;~~

~~—— (ii) the retail licensee holds a manufacturing license;~~

~~—— (iii) the portion is provided in separate containers for educational purposes;~~

~~—— (iv) no more than six containers are provided at the same time; and~~

~~—— (v) a patron is offered only one set of containers per day by the retail licensee.~~

~~—— (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter:~~

~~—— (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:~~

~~—— (i) in an open original container; and~~

~~—— (ii) in a container on draft.~~

~~—— (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):~~

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

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

~~—— (c) A retail licensee may sell, offer for sale, or furnish an individual portion of beer to a patron in more than one container if:~~

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- ~~—— (i) the total amount of beer in all of the containers does not exceed 12 ounces;~~
- ~~—— (ii) the retail licensee holds a manufacturing license;~~
- ~~—— (iii) the portions are provided in separate containers for educational purposes;~~
- ~~—— (iv) no more than six containers are provided at the same time; and~~
- ~~—— (v) a patron is offered only one set of containers per day by the retail licensee.~~

~~32B-6-407. Specific operational requirements for equity club license or fraternal club license:~~

- ~~—— (1) For purposes of this section only:~~
 - ~~—— (a) "Club licensee" means an equity club licensee or fraternal club licensee.~~
 - ~~—— (b) "Club licensee" does not include a dining club licensee or social club licensee.~~
- ~~—— (2) (a) A club licensee shall have a governing body that:~~
 - ~~—— (i) consists of three or more members of the club; and~~
 - ~~—— (ii) holds regular meetings to:~~
 - ~~—— (A) review membership applications; and~~
 - ~~—— (B) conduct other business as required by the bylaws or house rules of the club.~~
- ~~—— (b) (i) A club licensee shall maintain a minute book that is posted currently by the club licensee:~~
 - ~~—— (ii) The minute book required by this Subsection (2) shall contain the minutes of a regular or special meeting of the governing body.~~
- ~~—— (3) A club licensee may admit an individual as a member only on written application signed by the person, subject to:~~
 - ~~—— (a) the person paying an application fee; and~~
 - ~~—— (b) investigation, vote, and approval of a quorum of the governing body.~~
- ~~—— (4) A club licensee shall:~~
 - ~~—— (a) record an admission of a member in the official minutes of a regular meeting of the governing body; and~~
 - ~~—— (b) whether approved or disapproved, file an application as a part of the official records of the club licensee.~~
- ~~—— (5) The spouse of a member of a club licensee has the rights and privileges of the member:~~
 - ~~—— (a) to the extent permitted by the bylaws or house rules of the club licensee; and~~

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- ~~—— (b) except to the extent restricted by this title.~~
- ~~—— (6) A minor child of a member of a club licensee has the rights and privileges of the member:~~
 - ~~—— (a) to the extent permitted by the bylaws or house rules of the club licensee; and~~
 - ~~—— (b) except to the extent restricted by this title.~~
 - ~~—— (7) A club licensee shall maintain:~~
 - ~~—— (a) a current and complete membership record showing:~~
 - ~~—— (i) the date of application of a proposed member;~~
 - ~~—— (ii) a member's address;~~
 - ~~—— (iii) the date the governing body approved a member's admission;~~
 - ~~—— (iv) the date initiation fees and dues are assessed and paid; and~~
 - ~~—— (v) the serial number of the membership card issued to a member;~~
 - ~~—— (b) a membership list; and~~
 - ~~—— (c) a current record indicating when a member is removed as a member or resigns.~~
 - ~~—— (8) (a) A club licensee shall have bylaws or house rules that include provisions respecting the following:~~
 - ~~—— (i) standards of eligibility for members;~~
 - ~~—— (ii) limitation of members, consistent with the nature and purpose of the club;~~
 - ~~—— (iii) the period for which dues are paid, and the date upon which the period expires;~~
 - ~~—— (iv) provisions for removing a member from the club membership for the nonpayment of dues or other cause;~~
 - ~~—— (v) provisions for guests; and~~
 - ~~—— (vi) application fees and membership dues.~~
 - ~~—— (b) A club licensee shall maintain a current copy of the club licensee's current bylaws and current house rules.~~
 - ~~—— (c) A club licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.~~
 - ~~—— (9) A club licensee may, in its discretion, allow an individual to be admitted to or use the club licensed premises as a guest subject to the following conditions:~~
 - ~~—— (a) the individual is allowed to use the club licensee premises only to the extent permitted by the club licensee's bylaws or house rules;~~

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~~—— (b) the individual shall be previously authorized by a member of the club who agrees to host the individual as a guest into the club;~~

~~—— (c) the individual has only those privileges derived from the individual's host for the duration of the individual's visit to the club licensee premises; and~~

~~—— (d) a club licensee or staff of the club licensee may not enter into an agreement or arrangement with a club member to indiscriminately host a member of the general public into the club licensee premises as a guest.~~

~~—— (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club licensed premises without a host if:~~

~~—— (a) (i) the club licensee is an equity club licensee; and~~

~~—— (ii) the individual is a member of an equity club licensee that has reciprocal guest privileges with the equity club licensee for which the individual is a guest; or~~

~~—— (b) (i) the club licensee is a fraternal club licensee; and~~

~~—— (ii) the individual is a member of the same fraternal organization as the fraternal club licensee for which the individual is a guest.~~

~~—— (11) Unless the patron is a member or guest, a club licensee may not:~~

~~—— (a) sell, offer for sale, or furnish an alcoholic product to the patron; or~~

~~—— (b) allow the patron to be admitted to or use the licensed premises.~~

~~—— (12) A minor may not be a member, officer, director, or trustee of a club licensee.~~

~~—— (13) Public advertising related to a club licensee by the following shall clearly identify a club as being "a club for members":~~

~~—— (a) the club licensee;~~

~~—— (b) staff of the club licensee; or~~

~~—— (c) a person under a contract or agreement with the club licensee.~~

~~—— Section 15. Section **32B-5-309 (Superseded 07/01/13)** is amended to read:~~

~~—— **32B-5-309 (Superseded 07/01/13). Ceasing operation -- Prohibiting transfer of license:**~~

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

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

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- ~~—— (ii) the closure or cessation of operation is first approved by the department.~~
- ~~—— (b) Notwithstanding Subsection (1)(a), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.~~
- ~~—— (c) (i) The department may authorize a closure or cessation of operation of a retail licensee for a period not to exceed 60 days.~~
- ~~—— (ii) The department may extend the initial period an additional 30 days upon:~~
 - ~~—— (A) written request of the retail licensee; and~~
 - ~~—— (B) a showing of good cause.~~
- ~~—— (d) A closure or cessation of operation may not exceed a total of 90 days without commission approval.~~
- ~~—— (e) A notice required under this Subsection (1) shall include:~~
 - ~~—— (i) the dates of closure or cessation of operation;~~
 - ~~—— (ii) the reason for the closure or cessation of operation; and~~
 - ~~—— (iii) the date on which the retail licensee will reopen or resume operation.~~
- ~~—— (f) Failure of a retail licensee to provide notice and to obtain department approval before closure or cessation of operation results in an automatic forfeiture of:~~
 - ~~—— (i) the retail license; and~~
 - ~~—— (ii) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.~~
- ~~—— (g) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:~~
 - ~~—— (i) the retail license; and~~
 - ~~—— (ii) the unused portion of the retail license fee for the remainder of the retail license year.~~
- ~~—— (h) This Subsection (1) does not apply to:~~
 - ~~—— (i) an on-premise beer retailer who is not a tavern; or~~
 - ~~—— (ii) an airport lounge licensee.~~
- ~~—— (2) A retail licensee may not transfer a retail license from one location to another location, without prior written approval of the commission. A retail licensee shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (2).~~

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~~—— (3) (a) A person, having been issued a retail license may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the retail license to another person whether for monetary gain or not.~~

~~—— (b) A retail license has no monetary value for any type of disposition.~~

~~—— Section 16. Section **32B-5-311** is enacted to read:~~

~~—— **32B-5-311. Private events at retail licensee premises after hours.**~~

~~—— Subject to Sections 32B-5-309 and 32B-6-505, a retail licensee may temporarily rent or otherwise temporarily lease its premises to a person after the hours the retail licensee may sell, offer for sale, or furnish an alcoholic product if:~~

~~—— (1) the person who temporarily rents or leases the licensed premises obtains an event permit under Chapter 9, Event Permit Act, for the time period that the retail licensee rents or otherwise leases its licensed premises;~~

~~—— (2) the event for which the licensed premises are leased is not open to the public;~~

~~—— (3) the person to whom the retail licensee rents or leases the premises agrees in writing to comply with this title as if the person is the retail licensee, except for:~~

~~—— (a) a requirement related to making or maintaining a record; and~~

~~—— (b) the hours during which an alcoholic product may be sold, offered for sale, or furnished; and~~

~~—— (4) the retail licensee takes reasonable steps to ensure that the person complies with this section.~~

~~—— Section 17. Section **32B-6-203** is amended to read:~~

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

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

~~—— (2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.~~

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

~~—— (a) The commission may not issue a total number of full-service restaurant licenses that~~

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~~at any time exceeds the number determined by dividing the population of the state by 4,534.~~

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

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

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

~~—— (B) the locations under the full-service restaurant license are:~~

~~—— (I) within the same hotel; and~~

~~—— (II) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee.~~

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

~~—— (d) The commission may not issue a single full-service restaurant license to a full-service restaurant that would have licensed premises in more than one building unless there is continuity in the premises between the multiple buildings after considering one or more of the following:~~

~~—— (i) whether a patron would go through an unlicensed area to move from one part of the licenced premises to a different part of the licensed premises;~~

~~—— (ii) whether the buildings share common food preparation facilities;~~

~~—— (iii) whether there is a common entrance to the licensed premises with multiple buildings; and~~

~~—— (iv) any other factor the commission considers relevant.~~

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

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

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~~full-service restaurant license to the new owner of the premises if:~~

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

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

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

~~—— Section 18. Section **32B-6-205** is amended to read:~~

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

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

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

~~—— (i) a full-service restaurant licensee;~~

~~—— (ii) individual staff of a full-service restaurant licensee; or~~

~~—— (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.~~

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

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

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

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

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

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

~~—— (i) begins at midnight; and~~

~~—— (ii) ends at 11:29 a.m.~~

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

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

~~—— (a) mix for an alcoholic product; or~~

~~—— (b) a service charge.~~

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

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

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

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

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

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

~~—— (a) at:~~

~~—— (i) the patron's table;~~

~~—— (ii) a counter; or~~

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

~~—— (b) where food is served.~~

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

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

~~———— (i) sit;~~

~~———— (ii) be furnished an alcoholic product; and~~

~~———— (iii) consume an alcoholic product.~~

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

~~———— (i) sit; or~~

~~———— (ii) consume food or beverages.~~

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

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

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

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

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

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

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

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

~~———— (iii) an area that is:~~

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

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- ~~—— (I) not readily visible to a patron; and~~
- ~~—— (II) not accessible by a patron; and~~
- ~~—— (B) apart from an area used:~~
 - ~~—— (I) for dining;~~
 - ~~—— (II) for staging; or~~
 - ~~—— (III) as a lobby or waiting area;~~
- ~~—— (b) the full-service restaurant licensee uses an alcoholic product that is:~~
 - ~~—— (i) stored in an area described in Subsection (12)(a); or~~
 - ~~—— (ii) in an area not described in Subsection (12)(a) on the licensed premises and:~~
 - ~~—— (A) immediately before the alcoholic product is dispensed it is in an unopened container;~~
 - ~~—— (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and~~
 - ~~—— (C) once opened, the container is stored in an area described in Subsection (12)(a); and~~
 - ~~—— (c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).~~
- ~~—— (13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:~~
 - ~~—— (a) a set-up charge;~~
 - ~~—— (b) a service charge; or~~
 - ~~—— (c) a chilling fee.~~
- ~~—— (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding Subsection 32B-6-706(4), a full-service restaurant licensee may not allow a patron to remove a container containing an alcoholic product from the licensed premises of the full-service restaurant unless the full-service restaurant licensee holds a package agency under which the full-service restaurant licensee may sell, offer for sale, or furnish sealed containers of an alcoholic product.~~
- ~~—— (15) Subject to Section 32B-5-309, a full-service restaurant licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:~~
 - ~~—— (a) the person to whom the full-service restaurant licensee rents or leases the premises agrees in writing to comply with this title as if the person is the full-service restaurant licensee.~~

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~~except for a requirement related to making or maintaining a record; and~~

~~(b) the full-service restaurant licensee takes reasonable steps to ensure that the person complies with this title as provided in Subsection (15)(a);~~

~~Section 19. Section **32B-6-206** is enacted to read:~~

† **32B-6-206. Master full-service restaurant license.**

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

(i) owns each of the full-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3) (a) A master full-service restaurant license expires on October 31 of each year.

(b) To renew a person's full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4) (a) The nonrefundable application fee for a master full-service restaurant license is \$330.

(b) The initial license fee for a master full-service restaurant license is \$10,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the

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master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(b).

(c) The renewal fee for a master full-service restaurant license is \$1,000 plus a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of \$330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master full-service restaurant license;

(ii) individual staff of the location under the master full-service restaurant license; or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master full-service restaurant licensee or individual staff of the master full-service restaurant

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licensee if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master full-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master full-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section ~~{20}~~8. Section ~~{32B-6-303}~~32B-6-306 is ~~{amended to read:~~

~~—————~~ **32B-6-303. Commission's power to issue limited-service restaurant license:**

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

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

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

~~—————~~ (i) ~~spirituous liquor; or~~

~~—————~~ (ii) ~~a flavored malt beverage.~~

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

~~—————~~ (a) ~~The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 7,493.~~

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

~~—————~~ (c) (i) ~~If the location, design, and construction of a hotel may require more than one limited-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three~~

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~~limited-service restaurant locations within the hotel under one limited-service restaurant license if:~~

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

~~—— (B) the locations under the limited-service restaurant license are:~~

~~—— (I) within the same hotel; and~~

~~—— (II) on premises that are managed or operated, and owned or leased, by the~~

~~limited-service restaurant licensee.~~

~~—— (ii) A facility other than a hotel shall have a separate limited-service restaurant license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished:~~

~~—— (d) The commission may not issue a single limited-service restaurant license to a limited-service restaurant that would have licensed premises in more than one building unless there is continuity in the premises between the multiple buildings after considering one or more of the following:~~

~~—— (i) whether a patron would go through an unlicensed area to move from one part of the licensed premises to a different part of the licensed premises;~~

~~—— (ii) whether the buildings share common food preparation facilities;~~

~~—— (iii) whether there is a common entrance to the licensed premises with multiple buildings; and~~

~~—— (iv) any other factor the commission considers relevant.~~

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

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

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

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

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~~variance; and~~

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

~~—— Section 21. Section **32B-6-305** is amended to read:~~

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

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

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

~~—— (i) a limited-service restaurant licensee;~~

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

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

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

~~—— (i) spirituous liquor; or~~

~~—— (ii) a flavored malt beverage.~~

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

~~—— (i) as a flavoring on a dessert; and~~

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

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

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

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

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

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

~~—— (i) begins at midnight; and~~

~~—— (ii) ends at 11:29 a.m.~~

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

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

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

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

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

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

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

~~—— (a) at:~~

~~—— (i) the patron's table;~~

~~—— (ii) a counter; or~~

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

~~—— (b) where food is served.~~

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

~~—— (b) At a seating grandfathered bar structure a patron who is 21 years of age or older~~

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may:

- ~~—— (i) sit;~~
- ~~—— (ii) be furnished an alcoholic product; and~~
- ~~—— (iii) consume an alcoholic product.~~
- ~~—— (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:~~
 - ~~—— (i) sit; or~~
 - ~~—— (ii) consume food or beverages.~~
- ~~—— (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:~~
 - ~~—— (A) as provided in Subsection 32B-5-308(2); or~~
 - ~~—— (B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.~~
- ~~—— (ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be.~~
- ~~—— (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:~~
 - ~~—— (a) the alcoholic product is dispensed from:~~
 - ~~—— (i) a grandfathered bar structure;~~
 - ~~—— (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or~~
 - ~~—— (iii) an area that is:~~
 - ~~—— (A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:~~
 - ~~—— (I) not readily visible to a patron; and~~
 - ~~—— (II) not accessible by a patron; and~~
 - ~~—— (B) apart from an area used:~~
 - ~~—— (I) for dining;~~

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- ~~—— (II) for staging; or~~
- ~~—— (III) as a lobby or waiting area;~~
- ~~—— (b) the limited-service restaurant licensee uses an alcoholic product that is:~~
 - ~~—— (i) stored in an area described in Subsection (12)(a); or~~
 - ~~—— (ii) in an area not described in Subsection (12)(a) on the licensed premises and:~~
 - ~~—— (A) immediately before the alcoholic product is dispensed it is in an unopened container;~~
 - ~~—— (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and~~
 - ~~—— (C) once opened, the container is stored in an area described in Subsection (12)(a); and~~
 - ~~—— (c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).~~
- ~~—— (13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:~~
 - ~~—— (a) a set-up charge;~~
 - ~~—— (b) a service charge; or~~
 - ~~—— (c) a chilling fee.~~
- ~~—— (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding Subsection 32B-6-706(4), a limited-service restaurant licensee may not allow a patron to remove a container containing an alcoholic product from the licensed premises of the limited-service restaurant unless the limited-service restaurant licensee holds a package agency under which the limited-service restaurant licensee may sell, offer for sale, or furnish sealed containers of an alcoholic product.~~
- ~~—— (15) Subject to Section 32B-5-309, a limited-service restaurant licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:~~
 - ~~—— (a) the person to whom the limited-service restaurant licensee rents or leases the premises agrees in writing to comply with this title as if the person is the limited-service restaurant licensee, except for a requirement related to making or maintaining a record; and~~
 - ~~—— (b) the limited-service restaurant licensee takes reasonable steps to ensure that the person complies with this title as provided in Subsection (15)(a).~~

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~~Section 22. Section 32B-6-306 is~~ enacted to read:

32B-6-306. Master limited-service restaurant license.

(1) (a) The commission may issue a master limited-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as limited-service restaurants if the person applying for the master limited-service restaurant license:

(i) owns each of the limited-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a limited-service restaurant under the master limited-service restaurant license separately meets the requirements of this part; and

(iii) the master limited-service restaurant includes at least five limited-service restaurant locations.

(b) The person seeking a master limited-service restaurant license shall designate which limited-service restaurant locations the person seeks to have under the master limited-service restaurant license.

(c) A limited-service restaurant location under a master limited-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master limited-service restaurant license and each location under Subsection (1) are considered a single limited-service restaurant license for purposes of Subsection 32B-6-303(3)(a).

(3) (a) A master limited-service restaurant license expires on October 31 of each year.

(b) To renew a person's master limited-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4) (a) The nonrefundable application fee for a master limited-service restaurant license is \$330.

(b) The initial license fee for a master limited-service restaurant license is \$5,000 plus a separate initial license fee for each newly licensed limited-service restaurant license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(b).

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(c) The renewal fee for a master limited-service restaurant license is \$500 plus a separate renewal fee for each limited-service license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(c).

(5) A new location may be added to a master limited-service restaurant license after the master limited-service restaurant license is issued if:

(a) the master limited-service restaurant licensee pays a nonrefundable application fee of \$330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master limited-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master limited-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master limited-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master limited-service restaurant licensee is transferring management personnel from one location to another location covered by the master limited-service restaurant licensee.

(b) A location covered by a master limited-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master limited-service restaurant licensee may not transfer alcoholic products between different locations covered by the master limited-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master limited-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master limited-service restaurant license;

(ii) individual staff of the location under the master limited-service restaurant licence;

or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master limited-service restaurant licensee or individual staff of the master limited-service

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restaurant licensee if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master limited-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master limited-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master limited-service restaurant license under this section.

Section ~~{23}~~9. Section ~~{32B-6-903}~~32B-6-407 is amended to read:

~~{32B-6-903. Commission's power to issue beer-only restaurant license:~~

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

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

~~—— (b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on the licensed premises of a beer-only restaurant licensee.~~

~~—— (3) (a) Only one beer-only restaurant license is required for each building or resort facility owned or leased by the same person.~~

~~—— (b) A separate license is not required for each beer-only restaurant license dispensing location in the same building or on the same resort premises owned or operated by the same person.~~

~~—— (c) Except as provided in Subsections (3)(a) and (b), the commission may not issue a single beer-only restaurant license to a beer-only restaurant that would have licensed premises in more than one building unless there is continuity in the premises between the multiple buildings after considering one or more of the following:~~

~~—— (i) whether a patron would go through an unlicensed area to move from one part of the licensed premises to a different part of the licensed premises;~~

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~~— (ii) whether the buildings share common food preparation facilities;~~

~~— (iii) whether there is a common entrance to the licensed premises with multiple buildings; and~~

~~— (iv) any other factor the commission considers relevant;~~

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

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

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

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

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

~~— (c) The location of the licensed premises of an on-premise beer retailer who is licensed as of July 1, 2011, is grandfathered and not required to meet the proximity requirements of Section 32B-1-202 if the on-premise beer retailer obtains a beer-only restaurant license by not later than March 1, 2012. A location grandfathered under this Subsection (4)(c) is considered grandfathered notwithstanding that the beer-only restaurant license undergoes a change of ownership:~~

~~— Section 24. Section **32B-6-905** is amended to read:~~

~~— **32B-6-905**; **32B-6-407**. Specific operational requirements for ~~{a beer-only restaurant}~~**equity club license or fraternal club** license.~~

~~(1) ~~{(a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant}~~ **For purposes of this section only:**~~

~~(a) **"Club licensee" means an equity club licensee or fraternal club licensee.**~~

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(b) "Club licensee" does not include a dining club licensee or social club licensee.

(2) (a) A club licensee shall ~~comply with this section.~~

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

~~— (i) a beer-only restaurant licensee;~~

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

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

~~— (2) (a) A beer-only restaurant licensee on the } have a governing body that:~~

(i) consists of three or more members of the club; and

(ii) holds regular meetings to:

(A) review membership applications; and

(B) conduct other business as required by the bylaws or house rules of the club.

(b) (i) A club licensee shall maintain a minute book that is posted currently by the club licensee.

(ii) The minute book required by this Subsection (2) shall contain the minutes of a regular or special meeting of the governing body.

(3) A club licensee may admit an individual as a member only on written application signed by the person, subject to:

(a) the person paying an application fee; and

(b) investigation, vote, and approval of a quorum of the governing body.

(4) A club licensee shall:

(a) record an admission of a member in the official minutes of a regular meeting of the governing body; and

(b) whether approved or disapproved, file an application as a part of the official records of the club licensee.

(5) The spouse of a member of a club licensee has the rights and privileges of the member:

(a) to the extent permitted by the bylaws or house rules of the club licensee; and

(b) except to the extent restricted by this title.

(6) A minor child of a member of a club licensee has the rights and privileges of the member:

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(a) to the extent permitted by the bylaws or house rules of the club licensee; and

(b) except to the extent restricted by this title.

(7) A club licensee shall maintain:

(a) a current and complete membership record showing:

(i) the date of application of a proposed member;

(ii) a member's address;

(iii) the date the governing body approved a member's admission;

(iv) the date initiation fees and dues are assessed and paid; and

(v) the serial number of the membership card issued to a member;

(b) a membership list; and

(c) a current record indicating when a member is removed as a member or resigns.

(8) (a) A club licensee shall have bylaws or house rules that include provisions

respecting the following:

(i) standards of eligibility for members;

(ii) limitation of members, consistent with the nature and purpose of the club;

(iii) the period for which dues are paid, and the date upon which the period expires;

(iv) provisions for removing a member from the club membership for the nonpayment

of dues or other cause;

(v) provisions for guests; and

(vi) application fees and membership dues.

(b) A club licensee shall maintain a current copy of the club licensee's current bylaws and current house rules.

(c) A club licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.

(9) A club licensee may, in its discretion, allow an individual to be admitted to or use the club licensed premises as a guest subject to the following conditions:

(a) the individual is allowed to use the club licensee premises only to the extent permitted by the club licensee's bylaws or house rules;

(b) the individual shall be previously authorized by a member of the club who agrees to host the individual as a guest into the club;

(c) the individual has only those privileges derived from the individual's host for the

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duration of the individual's visit to the club licensee premises; and

(d) a club licensee or staff of the club licensee may not enter into an agreement or arrangement with a club member to indiscriminately host a member of the general public into the club licensee premises as a guest.

(10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club licensed premises without a host if:

(a) (i) the club licensee is an equity club licensee; and

(ii) the individual is a member of an equity club licensee that has reciprocal guest privileges with the equity club licensee for which the individual is a guest; [or]

(b) (i) the club licensee is a fraternal club licensee; and

(ii) the individual is a member of the same fraternal organization as the fraternal club licensee for which the individual is a guest[-]; or

(c) (i) the club licensee is a fraternal club licensee that holds the fraternal club license on July 1, 2013;

(ii) the club licensee's bylaws permit guests in the club licensed premises ~~may not sell, offer for sale, furnish, or allow consumption of liquor.~~

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

~~— (i) as a flavoring on a dessert; and~~

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

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

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

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

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

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

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

~~—— (7) A beer-only restaurant licensee shall maintain at least 70%} without a host except that a minor may not be admitted as a guest without a host; and~~

~~(iii) the club licensee maintains 60% of its total ~~{restaurant}~~club business from the sale of food, ~~{which does not include a service charge.~~~~

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

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

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

~~—— (10) A patron may consume a beer only:~~

~~—— (a) at:~~

~~—— (i) the patron's table;~~

~~—— (ii) a grandfathered bar structure; or~~

~~—— (iii) a counter; and~~

~~—— (b) where food is served.~~

~~—— (11) (a) A beer-only restaurant} not including mix for alcoholic products, or service charges.~~

~~(11) Unless the patron is a member or guest, a club licensee may not:~~

~~(a) sell, offer for sale, or furnish ~~{a beer to a patron, and a patron may not consume }~~an alcoholic product ~~{at a bar structure.~~~~

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

~~—— (i) sit;~~

~~—— (ii) be furnished a beer; and~~

~~—— (iii) consume a beer.~~

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

~~—— (i) sit; or~~

~~—— (ii) consume food or beverages.~~

~~—— (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a~~

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beer-only restaurant licensee:

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

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

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

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

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

~~—— (i) a grandfathered bar structure; or~~

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

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

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

~~—— (ii) in an area not described in Subsection (12)(a) on} to the patron; or~~

(b) allow the patron to be admitted to or use the licensed premises ~~{ and: }~~;

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

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

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

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

~~—— (13) Notwithstanding Subsection 32B-6-706(4), a beer-only restaurant licensee may not allow a patron to remove a container containing an alcoholic product from the licensed premises of the beer-only restaurant unless the beer-only restaurant licensee holds a package agency under which the beer-only restaurant licensee may sell, offer for sale, or furnish sealed containers of beer.~~

~~—— (14) Subject to Section 32B-5-309, a beer-only restaurant licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:~~

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~~_____ (a) the person to whom the beer-only restaurant licensee rents or leases the premises agrees in writing to comply with this title as if the person is the beer-only restaurant licensee, except for a requirement related to making or maintaining a record; and~~

~~_____ (b) the beer-only restaurant licensee takes reasonable steps to ensure that the person complies with this title as provided in Subsection (14)(a).~~

~~_____ Section 25} 12) A minor may not be a member, officer, director, or trustee of a club licensee.~~

~~[(13) Public advertising related to a club licensee by the following shall clearly identify a club as being "a club for members":]~~

~~[(a) the club licensee;]~~

~~[(b) staff of the club licensee; or]~~

~~[(c) a person under a contract or agreement with the club licensee.]~~

Section 10. Section **32B-8a-201 (Effective 07/01/13)** is amended to read:

32B-8a-201 (Effective 07/01/13). Transferability of retail license.

(1) (a) A retail license is separate from other property of a retail licensee.

(b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the existence of any type of retail license.

(c) Except as provided in this chapter, a person may not:

(i) transfer a retail license from one location to another location; or

(ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the retail license to another person whether for monetary gain or not.

(d) If approved by the commission and subject to the requirements of this chapter, a retail licensee may transfer a retail license:

(i) from the retail licensee to another person, regardless of whether it is for the same premises; and

(ii) from one premises of the retail licensee to another premises of the retail licensee.

(2) (a) The commission may not approve the transfer of a retail license that results in a transferee holding a different type of retail license than is held by the transferor.

(b) The commission may not approve the transfer of a retail license from one location to another location, if the location of the premises to which the retail license would be transferred is in a different county than the location of the licensed premises of the retail licensee

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being transferred.

(3) The commission may not approve the transfer of a retail license if the transferee:

(a) is not eligible to hold the same type of retail license as the retail license to be transferred at the premises to which the retail license would be transferred; or

(b) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a retail license:

(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or

(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

(4) This chapter does not apply to a:

(a) master full-service restaurant license; or

(b) master limited-service restaurant license.

~~Section {26. Section 32B-9-204 is amended to read:~~

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

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

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

~~(i) may result in:~~

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

~~(I) an event permittee;~~

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

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

~~(B) immediate revocation of the event permit;~~

~~(C) forfeiture of a bond; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3:~~

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

~~—— (a) a beer wholesaler licensee;~~

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~~—— (b) a beer retailer; or~~

~~—— (c) a small brewer.~~

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

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

~~—— (i) in an open original container; and~~

~~—— (ii) in a container on draft.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (a) a minor;~~

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

~~—— (c) a known interdicted person; or~~

~~—— (d) a known habitual drunkard.~~

~~—— (11) (a) An alcoholic product is considered under the control of the event permittee during an event:~~

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

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

~~—— (a) is used primarily for drinking purposes; and~~

~~—— (b) contains an alcoholic product.~~

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

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

~~—— (i) consume an alcoholic product; or~~

~~—— (ii) be intoxicated.~~

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

~~—— (15) The location specified in an event permit may not be changed without prior written approval of the commission. An event permittee shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (15).~~

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

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

~~———— (i) begins at 1 a.m.; and~~

~~———— (ii) ends at 9:59 a.m.~~

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

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

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

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

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

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

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

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

~~———— (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (19)(a)(iv) and (v):~~

~~———— (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the same font size:~~

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

~~———— Section 27. Section **32B-10-206** is amended to read:~~

~~———— **32B-10-206. General operational requirements for special use permit.**~~

~~———— (1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.~~

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

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

~~—— (i) a special use permittee;~~

~~—— (ii) individual staff of a special use permittee; or~~

~~—— (iii) a special use permittee and staff of the special use permittee.~~

~~—— (c) The commission may suspend or revoke a special use permit with or without cause.~~

~~—— (2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs:~~

~~—— (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.~~

~~—— (c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.~~

~~—— (3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured:~~

~~—— (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3):~~

~~—— (4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.~~

~~—— (b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises:~~

~~—— (c) A special use permittee shall purchase liquor at prices set by the commission:~~

~~—— (d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing:~~

~~—— (e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility:~~

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~~—— (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.~~

~~—— (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:~~

~~—— (a) a minor;~~

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

~~—— (c) a known interdicted person; or~~

~~—— (d) a known habitual drunkard.~~

~~—— (7) A special use permittee may not employ a minor to handle an alcoholic product.~~

~~—— (8) (a) The location specified in a special use permit may not be transferred from one location to another location, without prior written approval of the commission. A special use permittee shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (8)(a).~~

~~—— (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not.~~

~~—— (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.~~

~~—— (10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:~~

~~—— (a) physical facilities;~~

~~—— (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;~~

~~—— (c) purchase, storage, and sales quantity limitations; and~~

~~—— (d) other matters considered appropriate by the commission.~~

~~—— Section 28. Section **32B-11-208** is amended to read:~~

~~—— **32B-11-208. General operational requirements for manufacturing license.**~~

~~—— (1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.~~

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

~~—— (i) a manufacturing licensee;~~

~~—— (ii) individual staff of a manufacturing licensee; or~~

~~—— (iii) a manufacturing licensee and staff of the manufacturing licensee.~~

~~—— (2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.~~

~~—— (3) (a) A manufacturing licensee shall make and maintain the records required by the department.~~

~~—— (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3):~~

~~—— (4) A manufacturing licensee may not sell liquor within the state except to:~~

~~—— (a) the department; or~~

~~—— (b) a military installation.~~

~~—— (5) A manufacturing license may not be transferred from one location to another location, without prior written approval of the commission. A manufacturing licensee shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (5):~~

~~—— (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.~~

~~—— (b) A manufacturing license has no monetary value for any type of disposition.~~

~~—— (7) A manufacturing licensee may not advertise its product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.~~

~~—— (8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:~~

~~—— (a) for sale; or~~

~~—— (b) in the course of manufacture for sale in this state.~~

~~—— (9) The commission may prescribe by policy or rule, consistent with this title, the~~

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~~general operational requirements of a manufacturing licensee relating to:~~

- ~~—— (a) physical facilities;~~
- ~~—— (b) conditions of storage, sale, or manufacture of an alcoholic product;~~
- ~~—— (c) storage and sales quantity limitations; and~~
- ~~—— (d) other matters considered appropriate by the commission.~~

~~Section 29. Section **32B-12-301** is amended to read:~~

~~**32B-12-301. General operational requirements for liquor warehousing license.**~~

~~(1) (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall comply with this title and the rules of the commission.~~

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

- ~~—— (i) a liquor warehouser licensee;~~
- ~~—— (ii) individual staff of a liquor warehouser licensee; or~~
- ~~—— (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.~~

~~(2) (a) A liquor warehouser licensee shall make and maintain records required by the department.~~

~~(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2):~~

~~(3) A liquor warehousing license may not be transferred from one location to another location, without prior written approval of the commission. A liquor warehousing licensee shall pay an application fee of \$300 to apply for the written approval of the commission under this Subsection (3).~~

~~(4) (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.~~

~~(b) A liquor warehousing license has no monetary value for any type of disposition.~~

~~(5) A liquor warehouser licensee may not employ a minor to handle an alcoholic product.~~

~~(6) Liquor that is warehoused in this state and sold to an out-of-state consignee, may be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.~~

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~~—— (7) Liquor that is warehoused in this state and sold to the department may be transported only by a motor carrier approved by the department.~~

~~—— (8) Liquor transported to or from a liquor warehouse licensee's licensed premises shall be carried in a sealed conveyance that is made available for inspection by the department while en route within the state.~~

~~—— (9) A liquor warehouse licensee may not ship, convey, distribute, or remove liquor from a warehouse in less than a full case lot.~~

~~—— (10) A liquor warehouse licensee may not ship, convey, distribute, or remove liquor from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled.~~

~~—— (11) A liquor warehouse licensee may not receive, warehouse, distribute, transport, ship, or convey liquor that the commission has not authorized the liquor warehouse licensee to handle through its warehouse.~~

~~—— (12) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of licensees relating to:~~

~~—— (a) physical facilities;~~

~~—— (b) conditions of storage, distribution, or transport of liquor; and~~

~~—— (c) other matters considered appropriate by the commission.~~

~~—— Section 30}~~11. **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session, Chapter 1** is amended to read:

Section 7. **Uncodified Section 110, Laws of Utah 2011, Chapter 334** is amended to read:

Section 110. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

(2) (a) The repeal of Subsection 32B-6-603(4) [~~(Effective 07/01/11)~~] in this bill takes effect on November 1, 2011.

(b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes effect on November 1, 2011.

(c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill takes effect on March 1, 2012.

(d) The following take effect on July 1, [~~2013~~] 2014:

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(i) Section 32B-5-309 [~~(Effective 07/01/11)~~] (Effective 07/01/13) as amended by this bill; and

(ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.

Section ~~{31}~~12. **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session, Chapter 1** is amended to read:

Section 8. **Uncodified Section 24, Laws of Utah 2012, Chapter 365** is amended to read:

Section 24. **Effective date.**

This bill takes effect on July 1, 2012, except that the amendments made to Section 32B-8a-302 [~~(Effective 07/01/12)~~] (Effective 07/01/13), and Section 32B-8a-303 [~~(Effective 07/01/12)~~] (Effective 07/01/13), in this bill take effect on July 1, [~~2013~~] 2014.

~~{~~ ~~Section 32. **Appropriation:**~~

~~Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2014:~~

~~To Attorney General - Administration~~

~~From Alcoholic Beverage Control Act Legal Fund \$130,000~~

~~Schedule of Programs:~~

~~Administration \$130,000~~

~~The Legislature intends that the money appropriated be used to enforce Title 32B, Alcoholic Beverage Control Act, as provided in Section 32B-2-307.~~

~~†~~ Section ~~{33}~~13. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

(2) The actions to Section 32B-8a-201 (Effective 07/01/13) take effect on July 1, 2014.

Section ~~{34}~~14. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication do the following:

(1) change the superseding date in Section 32B-5-309 (Superseded 07/01/13) from July 1, 2013~~{}~~ to July 1, 2014;

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(2) change the effective date in Section 32B-5-309 (Effective 07/01/13) from July 1, 2013~~++~~ to July 1, 2014; and

(3) change the effective date from July 1, 2013~~++~~ to July 1, 2014~~++~~ in the following sections:

- (a) Section 32B-8a-101 (Effective 07/01/13);
- (b) Section 32B-8a-102 (Effective 07/01/13);
- (c) Section 32B-8a-201 (Effective 07/01/13);
- (d) Section 32B-8a-202 (Effective 07/01/13);
- (e) Section 32B-8a-203 (Effective 07/01/13);
- (f) Section 32B-8a-301 (Effective 07/01/13);
- (g) Section 32B-8a-302 (Effective 07/01/13);
- (h) Section 32B-8a-303 (Effective 07/01/13);
- (i) Section 32B-8a-401 (Effective 07/01/13);
- (j) Section 32B-8a-402 (Effective 07/01/13);
- (k) Section 32B-8a-403 (Effective 07/01/13);
- (l) Section 32B-8a-404 (Effective 07/01/13);
- (m) Section 32B-8a-501 (Effective 07/01/13); and
- (n) Section 32B-8a-502 (Effective 07/01/13).