

1 **AMENDMENTS RELATED TO ALCOHOLIC BEVERAGE**

2 **CONTROL**

3 2013 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Ryan D. Wilcox

7

LONG TITLE

8 **General Description:**

9 This bill modifies the Alcoholic Beverage Control Act to address the regulation of
10 alcoholic products.
11

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies definitions;
- 15 ▶ addresses proximity to community locations;
- 16 ▶ modifies how wine is treated in calculating ratio of gross receipts of food to
17 alcoholic product;
- 18 ▶ addresses the powers and duties of the commission;
- 19 ▶ creates the Alcoholic Beverage Control Act Legal Fund and deposits certain
20 penalties into the fund;
- 21 ▶ amends operational requirements for package agencies;
- 22 ▶ imposes minimum mandatory penalties related to minors;
- 23 ▶ modifies where certain fines are deposited;
- 24 ▶ expands retail licenses eligible for conditional retail licenses and allows for a
25 three-month extension of the period of a conditional retail license;
- 26 ▶ addresses multiple retail licenses at the same building;
- 27 ▶ permits local authorities to impose more restrictive hour requirements for retail



28 licensees;

- 29 ▶ permits certain alcoholic products to be served in several containers;
- 30 ▶ imposes a fee for applying to the commission for a change in location;
- 31 ▶ addresses private events at retail licensee premises;
- 32 ▶ addresses commission's authority to issue restaurant licenses;
- 33 ▶ modifies operational requirements for restaurant licensees;
- 34 ▶ modifies operational requirements for a resort spa sublicense;
- 35 ▶ extends the effective date for the Transfer of Retail License Act; and
- 36 ▶ makes technical changes.

37 **Money Appropriated in this Bill:**

38 This bill appropriates in fiscal year 2014:

- 39 ▶ to Attorney General - Administration as an ongoing appropriation:
 - 40 • from the Alcoholic Beverage Control Act Legal Fund, \$130,000 to pay for costs
- 41 associated with the enforcement of Title 32B, Alcoholic Beverage Control Act.

42 **Other Special Clauses:**

43 This bill provides revisor instructions.

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46 **32B-1-102**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 47 **32B-1-202**, as enacted by Laws of Utah 2010, Chapter 276
- 48 **32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334
- 49 **32B-2-202**, as last amended by Laws of Utah 2012, Chapter 365
- 50 **32B-2-305**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 51 **32B-2-605**, as last amended by Laws of Utah 2012, Chapter 365
- 52 **32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276
- 53 **32B-5-205**, as enacted by Laws of Utah 2010, Chapter 276
- 54 **32B-5-301**, as last amended by Laws of Utah 2011, Chapter 334
- 55 **32B-5-304**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 56 **32B-5-309 (Superseded 07/01/13)**, as enacted by Laws of Utah 2010, Chapter 276
- 57 **32B-6-203**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 58 **32B-6-205**, as last amended by Laws of Utah 2011, Chapters 307 and 334

- 59 **32B-6-303**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 60 **32B-6-305**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 61 **32B-6-903**, as enacted by Laws of Utah 2011, Chapter 334
- 62 **32B-6-905**, as enacted by Laws of Utah 2011, Chapter 334
- 63 **32B-8-304**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 64 **32B-9-204**, as last amended by Laws of Utah 2012, Chapter 365
- 65 **32B-10-206**, as enacted by Laws of Utah 2010, Chapter 276
- 66 **32B-11-208**, as enacted by Laws of Utah 2010, Chapter 276
- 67 **32B-12-301**, as enacted by Laws of Utah 2010, Chapter 276

68 ENACTS:

- 69 **32B-2-307**, Utah Code Annotated 1953
- 70 **32B-5-207**, Utah Code Annotated 1953
- 71 **32B-5-311**, Utah Code Annotated 1953

72 **Uncodified Material Affected:**

73 AMENDS UNCODIFIED MATERIAL:

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

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

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

78 **Utah Code Sections Affected by Revisor Instructions:**

- 79 **32B-5-309 (Superseded 07/01/13)**, as enacted by Laws of Utah 2010, Chapter 276
- 80 **32B-5-309 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 334
- 81 **32B-8a-101 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 82 **32B-8a-102 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 83 **32B-8a-201 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 84 **32B-8a-202 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 85 **32B-8a-203 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 86 **32B-8a-301 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 87 **32B-8a-302 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 365
- 88 **32B-8a-303 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 365
- 89 **32B-8a-401 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334

- 90 **32B-8a-402 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 91 **32B-8a-403 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 92 **32B-8a-404 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 93 **32B-8a-501 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 94 **32B-8a-502 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334



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

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

98 **32B-1-102. Definitions.**

99 As used in this title:

- 100 (1) "Airport lounge" means a business location:
 - 101 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - 102 (b) that is located at an international airport with a United States Customs office on the
 - 103 premises of the international airport.
- 104 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
- 105 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- 106 (3) "Alcoholic beverage" means the following:
 - 107 (a) beer; or
 - 108 (b) liquor.
- 109 (4) (a) "Alcoholic product" means a product that:
 - 110 (i) contains at least .5% of alcohol by volume; and
 - 111 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
 - 112 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
 - 113 in an amount equal to or greater than .5% of alcohol by volume.
- 114 (b) "Alcoholic product" includes an alcoholic beverage.
- 115 (c) "Alcoholic product" does not include any of the following common items that
- 116 otherwise come within the definition of an alcoholic product:
 - 117 (i) except as provided in Subsection (4)(d), an extract;
 - 118 (ii) vinegar;
 - 119 (iii) cider;
 - 120 (iv) essence;

- 121 (v) tincture;
- 122 (vi) food preparation; or
- 123 (vii) an over-the-counter medicine.
- 124 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 125 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 126 (5) "Alcohol training and education seminar" means a seminar that is:
- 127 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 128 (b) described in Section 62A-15-401.
- 129 (6) "Banquet" means an event:
- 130 (a) that is held at one or more designated locations approved by the commission in or
- 131 on the premises of a:
 - 132 (i) hotel;
 - 133 (ii) resort facility;
 - 134 (iii) sports center; or
 - 135 (iv) convention center;
- 136 (b) for which there is a contract:
 - 137 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
 - 138 and
 - 139 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
 - 140 provide an alcoholic product at the event; and
 - 141 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 142 (7) (a) "Bar" means a surface or structure:
 - 143 (i) at which an alcoholic product is:
 - 144 (A) stored; or
 - 145 (B) dispensed; or
 - 146 (ii) from which an alcoholic product is served.
- 147 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 148 place of the surface or structure an alcoholic product is:
 - 149 (i) stored; or
 - 150 (ii) dispensed.
- 151 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

- 152 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 153 volume or 3.2% by weight; and
- 154 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 155 (b) "Beer" may or may not contain hops or other vegetable products.
- 156 (c) "Beer" includes a product that:
- 157 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 158 (ii) is referred to as:
- 159 (A) beer;
- 160 (B) ale;
- 161 (C) porter;
- 162 (D) stout;
- 163 (E) lager; or
- 164 (F) a malt or malted beverage.
- 165 (d) "Beer" does not include a flavored malt beverage.
- 166 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 167 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- 168 (10) "Beer retailer" means a business:
- 169 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 170 whether for consumption on or off the business premises; and
- 171 (b) to whom a license is issued:
- 172 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 173 Beer Retailer Local Authority; or
- 174 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 175 and Chapter 6, Part 7, On-premise Beer Retailer License.
- 176 (11) "Beer wholesaling license" means a license:
- 177 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 178 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 179 retail licensees or off-premise beer retailers.
- 180 (12) "Billboard" means a public display used to advertise, including:
- 181 (a) a light device;
- 182 (b) a painting;

- 183 (c) a drawing;
- 184 (d) a poster;
- 185 (e) a sign;
- 186 (f) a signboard; or
- 187 (g) a scoreboard.
- 188 (13) "Brewer" means a person engaged in manufacturing:
- 189 (a) beer;
- 190 (b) heavy beer; or
- 191 (c) a flavored malt beverage.
- 192 (14) "Brewery manufacturing license" means a license issued in accordance with
- 193 Chapter 11, Part 5, Brewery Manufacturing License.
- 194 (15) "Certificate of approval" means a certificate of approval obtained from the
- 195 department under Section 32B-11-201.
- 196 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 197 a bus company to a group of persons pursuant to a common purpose:
- 198 (a) under a single contract;
- 199 (b) at a fixed charge in accordance with the bus company's tariff; and
- 200 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 201 motor vehicle, and a driver to travel together to one or more specified destinations.
- 202 (17) "Church" means a building:
- 203 (a) set apart for worship;
- 204 (b) in which religious services are held;
- 205 (c) with which clergy is associated; and
- 206 (d) that is tax exempt under the laws of this state.
- 207 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
- 208 License Act, and Chapter 6, Part 4, Club License.
- 209 (b) "Club license" includes:
- 210 (i) a dining club license;
- 211 (ii) an equity club license;
- 212 (iii) a fraternal club license; or
- 213 (iv) a social club license.

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

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

217 (21) "Community location" means:

218 (a) a public or private school;

219 (b) a church;

220 (c) a public library;

221 (d) a public playground; or

222 (e) a public park.

223 (22) "Community location governing authority" means:

224 (a) the governing body of the community location; or

225 (b) if the commission does not know who is the governing body of a community
226 location, a person who appears to the commission to have been given on behalf of the
227 community location the authority to prohibit an activity at the community location.

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

229 (a) a bottle;

230 (b) a vessel; or

231 (c) a similar item.

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

233 (a) in total at least 30,000 square feet; and

234 (b) otherwise defined as a "convention center" by the commission by rule.

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

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

239 (i) stored; or

240 (ii) dispensed.

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

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

244 (a) an auditor or inspector; and

245 (b) employed by the department.

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

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

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

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

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

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

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

258 (i) drawing of an alcoholic product:

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

260 (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),

261 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

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

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

266 (i) a full-service restaurant license;

267 (ii) a limited-service restaurant license;

268 (iii) a reception center license; and

269 (iv) a beer-only restaurant license.

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

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

274 (35) "Educational facility" includes:

275 (a) a nursery school;

276 (b) an infant day care center; and

277 (c) a trade and technical school.

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

281 (37) "Event permit" means:

282 (a) a single event permit; or

283 (b) a temporary beer event permit.

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

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

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

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

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

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

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

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

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

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

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

305 (b) "Furnish" includes to:

306 (i) serve;

- 307 (ii) deliver; or
- 308 (iii) otherwise make available.
- 309 (43) "Guest" means an individual who meets the requirements of Subsection
- 310 32B-6-407(9).
- 311 (44) "Health care practitioner" means:
- 312 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 313 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 314 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 315 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 316 Act;
- 317 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 318 Nurse Practice Act;
- 319 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 320 Practice Act;
- 321 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 322 Therapy Practice Act;
- 323 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 324 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 325 Professional Practice Act;
- 326 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 327 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 328 Practice Act;
- 329 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 330 Hygienist Practice Act; and
- 331 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 332 (45) (a) "Heavy beer" means a product that:
- 333 (i) contains more than 4% alcohol by volume; and
- 334 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 335 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 336 (46) "Hotel" is as defined by the commission by rule.
- 337 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,

338 Part 8, Identification Card Act.

339 (48) "Industry representative" means an individual who is compensated by salary,
340 commission, or other means for representing and selling an alcoholic product of a
341 manufacturer, supplier, or importer of liquor.

342 (49) "Industry representative sample" means liquor that is placed in the possession of
343 the department for testing, analysis, and sampling by a local industry representative on the
344 premises of the department to educate the local industry representative of the quality and
345 characteristics of the product.

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

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

350 (51) "Intoxicated" means that a person:

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

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

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

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

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

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

363 (54) "License" means:

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

366 Licenses Act;

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

368 or

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

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

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

373 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other
374 than a bus or taxicab:

375 (a) in which the driver and a passenger are separated by a partition, glass, or other
376 barrier;

377 (b) that is provided by a business entity to one or more individuals at a fixed charge in
378 accordance with the business entity's tariff; and

379 (c) to give the one or more individuals the exclusive use of the limousine and a driver
380 to travel to one or more specified destinations.

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

382 (A) is:

383 (I) alcohol;

384 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

385 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

386 (IV) other drink or drinkable liquid; and

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

388 (II) is suitable to use for beverage purposes.

389 (ii) "Liquor" includes:

390 (A) heavy beer;

391 (B) wine; and

392 (C) a flavored malt beverage.

393 (b) "Liquor" does not include beer.

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

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

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

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

399 (61) "Local authority" means:

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

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

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

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

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

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

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

412 (B) of the National Guard;

413 (ii) that is located within the state; and

414 (iii) including a leased facility.

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

416 (i) civil works;

417 (ii) a rivers and harbors project; or

418 (iii) a flood control project.

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

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

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

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

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

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

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

426 (b) employed by a nondepartment enforcement agency.

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

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

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

431 premises.

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

433 (70) "On-premise banquet license" means a license issued in accordance with Chapter
434 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

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

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

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

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

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

444 (A) as a tavern; or

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

446 (72) "Opaque" means impenetrable to sight.

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

448 (a) under an agreement with the department; and

449 (b) by a person:

450 (i) other than the state; and

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

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

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

456 (a) a customer;

457 (b) a member;

458 (c) a guest;

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

460 (e) an individual who receives room service;

461 (f) a resident of a resort;

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

463 or

464 (h) an invitee.

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

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

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

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

469 (a) a licensee;

470 (b) a permittee;

471 (c) a manufacturer;

472 (d) a supplier;

473 (e) an importer;

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

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

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

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

478 (g) staff of:

479 (i) a person listed in Subsections (77)(a) through (f); or

480 (ii) a package agent.

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

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

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

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

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

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

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

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

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

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

498 (i) an identification card;

499 (ii) an identification that:

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

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

503 (C) includes date of birth; and

504 (D) has a picture affixed;

505 (iii) a valid driver license certificate that:

506 (A) includes date of birth;

507 (B) has a picture affixed; and

508 (C) is issued:

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

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

511 (iv) a military identification card that:

512 (A) includes date of birth; and

513 (B) has a picture affixed; or

514 (v) a valid passport.

515 (b) "Proof of age" does not include a driving privilege card issued in accordance with
516 Section 53-3-207.

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

518 (i) owned or leased by:

519 (A) the state; or

520 (B) a local government entity; and

521 (ii) used for:

522 (A) public education;

523 (B) transacting public business; or

524 (C) regularly conducting government activities.

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

528 (83) "Public conveyance" means a conveyance to which the public or a portion of the
529 public has access to and a right to use for transportation, including an airline, railroad, bus,
530 boat, or other public conveyance.

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

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

533 (b) has as its primary purpose the leasing of the facilities described in Subsection
534 (84)(a) to a third party for the third party's event.

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

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

538 (i) inscribed on a tangible medium; or

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

540 (b) "Record" includes:

541 (i) a book;

542 (ii) a book of account;

543 (iii) a paper;

544 (iv) a contract;

545 (v) an agreement;

546 (vi) a document; or

547 (vii) a recording in any medium.

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

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

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

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

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

554 (92) "Restaurant" means a business location:

- 555 (a) at which a variety of foods are prepared;
- 556 (b) at which complete meals are served to the general public; and
- 557 (c) that is engaged primarily in serving meals to the general public.
- 558 (93) "Retail license" means one of the following licenses issued under this title:
- 559 (a) a full-service restaurant license;
- 560 (b) a limited-service restaurant license;
- 561 (c) a club license;
- 562 (d) an airport lounge license;
- 563 (e) an on-premise banquet license;
- 564 (f) an on-premise beer license;
- 565 (g) a reception center license; [~~or~~]
- 566 (h) a beer-only restaurant license[-]; or
- 567 (i) a resort license.
- 568 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
- 569 of a:
- 570 (a) hotel; or
- 571 (b) resort facility.
- 572 (95) "Serve" means to place an alcoholic product before an individual.
- 573 (96) (a) "School" means a building used primarily for the general education of minors.
- 574 (b) "School" does not include an educational facility.
- 575 (97) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
- 576 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
- 577 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
- 578 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
- 579 made by the commission.
- 580 (98) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 581 appears at or performs:
- 582 (a) for the entertainment of one or more patrons;
- 583 (b) on the premises of:
- 584 (i) a social club licensee; or
- 585 (ii) a tavern;

- 586 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
- 587 (d) on a contractual or voluntary basis; and
- 588 (e) whether or not the person is designated as:
 - 589 (i) an employee;
 - 590 (ii) an independent contractor;
 - 591 (iii) an agent of the licensee; or
 - 592 (iv) a different type of classification.
- 593 (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 594 Single Event Permit.
- 595 (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 596 beer, heavy beer, and flavored malt beverages per year.
- 597 (101) "Social club license" means a license issued in accordance with Chapter 5, Retail
- 598 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 599 social club license.
- 600 (102) "Special use permit" means a permit issued in accordance with Chapter 10,
- 601 Special Use Permit Act.
- 602 (103) (a) "Spirituous liquor" means liquor that is distilled.
- 603 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 604 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 605 (104) "Sports center" is as defined by the commission by rule.
- 606 (105) (a) "Staff" means an individual who engages in activity governed by this title:
- 607 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 608 holder;
- 609 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 610 certificate holder; or
- 611 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 612 or certificate holder.
- 613 (b) "Staff" includes:
 - 614 (i) an officer;
 - 615 (ii) a director;
 - 616 (iii) an employee;

- 617 (iv) personnel management;
- 618 (v) an agent of the licensee, including a managing agent;
- 619 (vi) an operator; or
- 620 (vii) a representative.
- 621 (106) "State of nudity" means:
- 622 (a) the appearance of:
- 623 (i) the nipple or areola of a female human breast;
- 624 (ii) a human genital;
- 625 (iii) a human pubic area; or
- 626 (iv) a human anus; or
- 627 (b) a state of dress that fails to opaquely cover:
- 628 (i) the nipple or areola of a female human breast;
- 629 (ii) a human genital;
- 630 (iii) a human pubic area; or
- 631 (iv) a human anus.
- 632 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
- 633 more than:
- 634 (a) the nipple and areola of the female human breast in a shape and color other than the
- 635 natural shape and color of the nipple and areola; and
- 636 (b) the human genitals, pubic area, and anus:
- 637 (i) with no less than the following at its widest point:
- 638 (A) four inches coverage width in the front of the human body; and
- 639 (B) five inches coverage width in the back of the human body; and
- 640 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 641 (108) (a) "State store" means a facility for the sale of packaged liquor:
- 642 (i) located on premises owned or leased by the state; and
- 643 (ii) operated by a state employee.
- 644 (b) "State store" does not include:
- 645 (i) a package agency;
- 646 (ii) a licensee; or
- 647 (iii) a permittee.

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

650 (b) "Store" means to place or maintain in a location an alcoholic product from which a
651 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
652 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or
653 32B-6-905(12)(b)(ii).

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

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

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

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

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

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

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

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

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

669 (a) is unsaleable because the container is:

670 (i) unlabeled;

671 (ii) leaky;

672 (iii) damaged;

673 (iv) difficult to open; or

674 (v) partly filled;

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

676 (ii) has contents that are:

677 (A) cloudy;

678 (B) spoiled; or

679 (C) chemically determined to be impure; or
680 (iii) contains:
681 (A) sediment; or
682 (B) a foreign substance; or
683 (c) is otherwise considered by the department as unfit for sale.
684 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the
685 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
686 another ingredient is added.
687 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
688 in this title.
689 (118) "Winery manufacturing license" means a license issued in accordance with
690 Chapter 11, Part 3, Winery Manufacturing License.
691 Section 2. Section **32B-1-202** is amended to read:
692 **32B-1-202. Proximity to community location.**
693 (1) For purposes of this section, "outlet" means:
694 (a) a state store;
695 (b) a package agency; or
696 (c) a retail licensee, except an airport lounge licensee.
697 (2) Except as otherwise provided in this section, the premises of an outlet may not be
698 located:
699 (a) within 600 feet of a community location, as measured from the nearest entrance of
700 the outlet by following the shortest route of ordinary pedestrian travel to the property boundary
701 of the community location; or
702 (b) within 200 feet of a community location, measured in a straight line from the
703 nearest entrance of the outlet to the nearest property boundary of the community location.
704 (3) With respect to the location of an outlet, the commission may authorize a variance
705 to reduce the proximity requirement of Subsection (2) if:
706 (a) when the variance reduces the proximity requirement of Subsection (2)(b), the
707 community location at issue is:
708 (i) a public library; or
709 (ii) a public park;

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

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

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

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

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

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

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

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

728 (II) for an outlet that is a retail licensee, in a public setting;

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

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

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

738 (a) the premises previously received a variance reducing the proximity requirement of
739 Subsection (2)(a);

740 (b) the premises received a variance reducing the proximity requirement of Subsection

741 (2)(b) on or before May 4, 2008; or

742 (c) a variance from proximity requirements was otherwise allowed under this title.

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

747 (a) the package agency or retail license premises is located in a city of the fifth class or
 748 a town;

749 (b) when the package agency or retail license was issued to a previous owner, the
 750 premises met the proximity requirements of Subsection (2);

751 (c) the premises has had a package agency or the same type of retail license at all times
 752 since the package agency or retail license described in Subsection (5)(b) was issued without a
 753 variance;

754 (d) the community location is located within the proximity requirements of Subsection
 755 (2) after the day on which the package agency or retail license described in Subsection (5)(b)
 756 was issued; and

757 (e) the community location has not moved from the location described in Subsection
 758 (5)(d).

759 (6) The commission may grant a variance to a person seeking a retail license from the
 760 requirements of Subsection (2)(b) if:

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

762 (b) on or before May 4, 2008, the premises was licensed ~~§~~ → [and had a variance from the
 763 requirements of Subsection (2)(b)] ← ~~§~~ ;

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

766 (d) the person is operating and otherwise qualified to obtain the retail license that the
 767 person is seeking.

768 ~~[(5)]~~ (7) Nothing in this section prevents the commission from considering the
 769 proximity of an educational, religious, and recreational facility, or any other relevant factor in
 770 reaching a decision on a proposed location of an outlet.

771 Section 3. Section **32B-1-207** is amended to read:

772 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

773 In calculating the annual gross receipts of a retail license or sublicense for purposes of
774 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
775 or an alcoholic product, a retail licensee may not include in the calculation the money from the
776 sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of [~~\$250~~
777 \$100].

778 Section 4. Section **32B-2-202** is amended to read:

779 **32B-2-202. Powers and duties of the commission.**

780 (1) The commission shall:

781 (a) [~~consistent with~~] subject to the policy established by the Legislature by statute, act
782 as a general [~~polycymaking~~] administrative body on the subject of alcoholic product control;

783 (b) adopt and issue policies, rules, and procedures to the extent expressly authorized by
784 this title;

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

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

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

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

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

794 (i) a package agency;

795 (ii) a full-service restaurant license;

796 (iii) a limited-service restaurant license;

797 (iv) a club license;

798 (v) an airport lounge license;

799 (vi) an on-premise banquet license;

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

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

802 (ix) a reception center license;

- 803 (x) a beer-only restaurant license;
- 804 (xi) subject to Subsection (4), a single event permit;
- 805 (xii) subject to Subsection (4), a temporary beer event permit;
- 806 (xiii) a special use permit;
- 807 (xiv) a manufacturing license;
- 808 (xv) a liquor warehousing license;
- 809 (xvi) a beer wholesaling license; and
- 810 (xvii) one of the following that holds a certificate of approval:
- 811 (A) an out-of-state brewer;
- 812 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 813 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 814 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke [~~one of the~~
- 815 ~~following~~] conditional licenses for the purchase, storage, sale, furnishing, consumption,
- 816 manufacture, and distribution of an alcoholic product[~~;~~];
- 817 [~~(i) a conditional full-service restaurant license; or~~]
- 818 [~~(ii) a conditional limited-service restaurant license;~~]
- 819 (g) prescribe the duties of the department in assisting the commission in issuing a
- 820 package agency, license, permit, or certificate of approval under this title;
- 821 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 822 in accordance with Section 63J-1-504;
- 823 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 824 agencies, and retail licensees;
- 825 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 826 class, variety, or brand of liquor kept for sale by the department;
- 827 (k) (i) require the director to follow sound management principles; and
- 828 (ii) require periodic reporting from the director to ensure that:
- 829 (A) sound management principles are being followed; and
- 830 (B) policies established by the commission are being observed;
- 831 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
- 832 and matters submitted by the director to the commission; and
- 833 (ii) do the things necessary to support the department in properly performing the

834 department's duties;

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

837 (i) considered expedient; and

838 (ii) approved by the governor;

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

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

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

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

848 (a) establish a state store;

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

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

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

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

856 (5) Notwithstanding the other provisions of this title, the commission may not waive or
857 vary the requirements imposed under this title, including licensing and operational
858 requirements, except when this title expressly grants the commission authority to waive or vary
859 the requirements.

860 Section 5. Section **32B-2-305** is amended to read:

861 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

862 (1) As used in this section:

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

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

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

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

869 (3) (a) The fund consists of:

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

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

872 [~~(i)~~] (iii) interest earned on the fund.

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

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

878 (5) (a) The Department of Public Safety shall expend money from the fund to
879 supplement appropriations by the Legislature so that the Department of Public Safety maintains
880 a sufficient number of alcohol-related law enforcement officers such that beginning on July 1,
881 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified
882 in Section 32B-1-201.

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

885 Section 6. Section **32B-2-307** is enacted to read:

886 **32B-2-307. Alcoholic Beverage Control Act Legal Fund.**

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

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

891 (3) (a) The fund consists of:

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

893 (ii) interest earned on the fund.

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

895 (4) The Office of the Attorney General shall expend money from the fund to

896 supplement appropriations by the Legislature to fund enforcement of this title.

897 Section 7. Section **32B-2-605** is amended to read:

898 **32B-2-605. Operational requirements for package agency.**

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

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

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

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

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

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

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

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

916 (i) the package agent; or

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

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

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

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

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

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

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

926 (f) A package agent shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

965 (a) a minor;

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

967 (c) a known interdicted person; or

968 (d) a known habitual drunkard.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 989 (i) the dates of closure or cessation of operation;
- 990 (ii) the reason for the closure or cessation of operation; and
- 991 (iii) the date on which the package agency will reopen or resume operation.
- 992 (e) Failure of a package agency to provide notice and to obtain department
- 993 authorization before closure or cessation of operation results in an automatic termination of the
- 994 package agency agreement effective immediately.
- 995 (f) Failure of a package agency to reopen or resume operation by the approved date
- 996 results in an automatic termination of the package agency agreement effective on that date.
- 997 (11) A package agency may not transfer its operations from one location to another
- 998 location without prior written approval of the commission. A package agency shall pay an
- 999 application fee of \$300 to apply for the written approval of the commission under this
- 1000 Subsection (11).
- 1001 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
- 1002 exchange, barter, give, or attempt in any way to dispose of the package agency to another
- 1003 person, whether for monetary gain or not.
- 1004 (b) A package agency has no monetary value for any type of disposition.
- 1005 (13) (a) Subject to the other provisions of this Subsection (13):
- 1006 (i) sale or delivery of liquor may not be made on or from the premises of a package
- 1007 agency, and a package agency may not be kept open for the sale of liquor:
- 1008 (A) on Sunday; or
- 1009 (B) on a state or federal legal holiday.
- 1010 (ii) Sale or delivery of liquor may be made on or from the premises of a package
- 1011 agency, and a package agency may be open for the sale of liquor, only on a day and during
- 1012 hours that the commission directs by rule or order.
- 1013 (b) A package agency located at a manufacturing facility is not subject to Subsection
- 1014 (13)(a) if:
- 1015 (i) the package agency is located ~~[at]~~ on the same parcel as a manufacturing facility
- 1016 licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- 1017 (ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing
- 1018 and Related Licenses Act, holds:
- 1019 (A) a full-service restaurant license;

- 1020 (B) a limited-service restaurant license;
- 1021 (C) a beer-only restaurant license; or
- 1022 (D) dining club license;
- 1023 (iii) the restaurant or dining club is located at the manufacturing facility;
- 1024 (iv) the restaurant or dining club sells an alcoholic product produced [at] by the
- 1025 manufacturing [facility] licensee;
- 1026 (v) the manufacturing facility:
- 1027 (A) owns the restaurant or dining club; or
- 1028 (B) operates the restaurant or dining club;
- 1029 (vi) the package agency only sells an alcoholic product produced [at] by the
- 1030 manufacturing [facility] licensee; and
- 1031 (vii) the package agency's days and hours of sale are the same as the days and hours of
- 1032 sale at the restaurant or dining club.
- 1033 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if
- 1034 the package agent that holds the package agency to sell liquor at the resort does not sell liquor
- 1035 in a manner similar to a state store.
- 1036 (ii) The commission may by rule define what constitutes a package agency that sells
- 1037 liquor "in a manner similar to a state store."
- 1038 (d) As used in this Subsection (13), "parcel" means an identifiable single unit of
- 1039 property that is treated as separate for valuation or zoning purposes and includes an
- 1040 improvement on that unit of property.
- 1041 (14) (a) Except to the extent authorized by commission rule, a minor may not be
- 1042 admitted into, or be on the premises of a package agency unless accompanied by a person who
- 1043 is:
- 1044 (i) 21 years of age or older; and
- 1045 (ii) the minor's parent, legal guardian, or spouse.
- 1046 (b) A package agent or staff of a package agency that has reason to believe that a
- 1047 person who is on the premises of a package agency is under the age of 21 and is not
- 1048 accompanied by a person described in Subsection (14)(a) may:
- 1049 (i) ask the suspected minor for proof of age;
- 1050 (ii) ask the person who accompanies the suspected minor for proof of age; and

1051 (iii) ask the suspected minor or the person who accompanies the suspected minor for
1052 proof of parental, guardianship, or spousal relationship.

1053 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
1054 suspected minor and to the person who accompanies the suspected minor into the package
1055 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1056 (d) A package agent or staff of a package agency shall require the suspected minor and
1057 the person who accompanies the suspected minor into the package agency to immediately leave
1058 the premises of the package agency if the minor or person fails to provide information specified
1059 in Subsection (14)(b).

1060 (15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed
1061 container.

1062 (b) A person may not open a sealed container on the premises of a package agency.

1063 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or
1064 furnish liquor in other than a sealed container:

1065 (i) if the package agency is the type of package agency that authorizes the package
1066 agency to sell, offer for sale, or furnish the liquor as part of room service;

1067 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1068 (iii) subject to:

1069 (A) staff of the package agency providing the liquor in person only to an adult guest in
1070 the guest room;

1071 (B) staff of the package agency not leaving the liquor outside a guest room for retrieval
1072 by a guest; and

1073 (C) the same limits on the portions in which an alcoholic product may be sold by a
1074 retail licensee under Section 32B-5-304.

1075 (16) On or after October 1, 2011, a package agency may not sell, offer for sale, or
1076 furnish heavy beer in a sealed container that exceeds two liters.

1077 (17) The department may pay or otherwise remunerate a package agent on any basis,
1078 including sales or volume of business done by the package agency.

1079 (18) The commission may prescribe by policy or rule general operational requirements
1080 of a package agency that are consistent with this title and relate to:

1081 (a) physical facilities;

- 1082 (b) conditions of operation;
- 1083 (c) hours of operation;
- 1084 (d) inventory levels;
- 1085 (e) payment schedules;
- 1086 (f) methods of payment;
- 1087 (g) premises security; and
- 1088 (h) any other matter considered appropriate by the commission.

1089 Section 8. Section **32B-3-205** is amended to read:

1090 **32B-3-205. Penalties.**

1091 (1) If the commission is satisfied that a person subject to administrative action violates
1092 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
1093 Procedures Act, the commission may:

- 1094 (a) suspend or revoke the person's license, permit, or certificate of approval;
- 1095 (b) subject to Subsection (2), impose a fine against the person, including individual
1096 staff of a licensee, permittee, or certificate holder;
- 1097 (c) assess the administrative costs of a disciplinary proceeding to the person if the
1098 person is a licensee, permittee, or certificate holder; or
- 1099 (d) take a combination of actions described in this Subsection (1).

1100 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

- 1101 (i) a single notice of agency action; or
- 1102 (ii) a single action against a package agency.

1103 (b) The commission shall by rule establish a schedule setting forth a range of fines for
1104 each violation.

1105 (3) ~~[The]~~ (a) Except as provided in Subsection (3)(b), the commission shall transfer
1106 the costs assessed under this section into the General Fund in accordance with Section
1107 32B-2-301.

1108 (b) Fines assessed under Subsection (11) shall be deposited as follows:

1109 (i) \$130,000 into the Alcoholic Beverage Control Act Legal Fund created in Section
1110 32B-2-307; and

1111 (ii) the remainder of the money into the Alcoholic Beverage Control Act Enforcement
1112 Fund created in Section 32B-2-305.

1113 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
1114 shall prominently display a sign provided by the department:

1115 (i) during the suspension; and

1116 (ii) at the entrance of the premises of the licensee or permittee.

1117 (b) The sign required by this Subsection (4) shall:

1118 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the
1119 alcoholic product license or permit of this establishment. An alcoholic product may not be
1120 sold, offered for sale, furnished, or consumed on these premises during the period of
1121 suspension."; and

1122 (ii) include the dates of the suspension period.

1123 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to
1124 be displayed under this Subsection (4) during the suspension period.

1125 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
1126 bond posted by the licensee or permittee under this title.

1127 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
1128 bond posted by a licensee or permittee for money owed the department under this title without
1129 the commission first revoking the license or permit.

1130 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
1131 license or permit under this title for three years from the date on which the license or permit is
1132 revoked.

1133 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
1134 violated this title, in addition to imposing another penalty authorized by this title, the
1135 commission may prohibit the staff member from handling, selling, furnishing, distributing,
1136 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
1137 staff with a licensee, permittee, or certificate holder under this title for a period determined by
1138 the commission.

1139 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
1140 to other penalties prescribed by this title, the commission may order:

1141 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
1142 from the department's sales list; and

1143 (ii) a suspension of the department's purchase of an alcoholic product described in

1144 Subsection (8)(a)(i) for a period determined by the commission.

1145 (b) The commission may take the action described in Subsection (8)(a) if:

1146 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
1147 this title; and

1148 (ii) the manufacturer, supplier, or importer:

1149 (A) directly commits the violation; or

1150 (B) solicits, requests, commands, encourages, or intentionally aids another to engage in
1151 the violation.

1152 (9) If the commission makes a finding that the brewer holding a certificate of approval
1153 violates this title or rules of the commission, the commission may take an action against the
1154 brewer holding a certificate of approval that the commission could take against a licensee
1155 including:

1156 (a) suspension or revocation of the certificate of approval; and

1157 (b) imposition of a fine.

1158 (10) Notwithstanding the other provisions of this title, the commission may not order a
1159 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1160 ordered on the basis of a violation:

1161 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1162 (b) if the violation is first investigated by a law enforcement officer, as defined in
1163 Section 53-13-103, who has not received training regarding the requirements of this title
1164 related to responsible alcoholic product sale or service.

1165 (11) (a) The commission shall impose, at a minimum, the following penalties for a
1166 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 ~~←§~~ :

1167 (i) for a first violation ~~§→~~ [] :

1167a (A) ~~←§~~ a mandatory minimum fine of ~~§→~~ [\$3,000] \$2,500 ~~←§~~ ; ~~§→~~ and

1167b (B) mandatory training under Chapter 5, Part 4, Alcohol Training and Education Act.
1167c of anyone who is required to be trained under Chapter 5, Part 4, but who has completed the
1167d training more than 11 months before the day on which the fine described in Subsection
1167e (11)(a)(i)(A) is imposed; ~~←§~~

1168 (ii) for a second violation that occurs within ~~§→~~ [three years] 18 months ~~←§~~ of the day on
1168a which the penalty
1169 is imposed for the first violation:

1170 (A) a mandatory minimum suspension of five days, served in successive days,
1171 including a weekend; and
1172 (B) a mandatory minimum fine of \$5,000; and
1173 (iii) for a third violation that occurs within three years of the day on which the penalty
1174 is imposed for the first violation:

1175 (A) a mandatory minimum suspension of 14 days, served in successive days, including
 1176 two weekends; and

1177 (B) a mandatory minimum fine of \$15,000.

1178 (b) The commission may not waive the penalties imposed under this Subsection (11).

1179 (12) (a) For a violation of Section 32B-1-407 or admitting a minor to a place where an
 1180 alcoholic product is sold or consumed, but where under this title a minor is not permitted, ~~§~~→that
 1180a occurs during an operation under Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age
 1180b Persons, or similar operation by a peace officer, as defined by Title 53, Chapter 13, Peace Officer
 1180c Classifications, ←§ the
 1181 commission shall impose, at a minimum, a suspension of five days or a fine of \$1,000.

1182 (b) The commission may not waive the penalties imposed under this Subsection (12).

1183 Section 9. Section **32B-5-205** is amended to read:

1184 **32B-5-205. Conditional retail license.**

1185 (1) As used in this section:

1186 (a) "Conditional retail license" means a retail license that:

1187 [~~(i) is for one of the following:~~]

1188 [~~(A) a full-service restaurant license; or~~]

1189 [~~(B) a limited-service restaurant license;~~]

1190 [~~(iii)~~] (i) conditions the holder's ability to sell, offer for sale, furnish, or allow the
 1191 consumption of an alcoholic product on its licensed premises on the person submitting to the
 1192 department a copy of the holder's current business license before obtaining a valid retail
 1193 license; and

1194 [~~(iii)~~] (ii) provides that the holder will be issued a valid retail license if the holder
 1195 complies with the requirements of Subsection (3).

1196 (b) "Valid retail license" means a retail license issued pursuant to this part under which
 1197 the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic
 1198 product on its licensed premises.

1199 (2) Subject to the requirements of this section, the commission may issue a conditional
 1200 retail license to a person if the person:

1201 (a) meets the requirements to obtain the retail license for which the person is applying
 1202 except the requirement to submit a copy of the person's current business license; and

1203 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
 1204 product on its licensed premises before obtaining a valid retail license.

1205 (3) (a) A conditional retail license becomes a valid retail license on the day on which

1206 the department notifies the person who holds the conditional retail license that the department
1207 finds that the person has complied with Subsection (3)(b).

1208 (b) For a conditional retail license to become a valid retail license, a person who holds
1209 the conditional retail license shall:

1210 (i) submit to the department a copy of the person's current business license; and

1211 (ii) provide to the department evidence satisfactory to the department that:

1212 (A) there has been no change in the information submitted to the commission as part of
1213 the person's application for a retail license; and

1214 (B) the person continues to qualify for the retail license.

1215 (4) (a) A conditional retail license expires six months after the day on which the
1216 commission issues the conditional retail license, unless the conditional retail license becomes a
1217 valid retail license before that day.

1218 (b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a
1219 conditional retail license an additional three months if the holder of the conditional license can
1220 show to the satisfaction of the commission that the holder of the conditional license:

1221 (i) has an active building permit related to the licensed premises; and

1222 (ii) is engaged in a good faith effort to pursue completion within the three-month
1223 period.

1224 Section 10. Section **32B-5-207** is enacted to read:

1225 **32B-5-207. Multiple retail licenses at same building.**

1226 (1) (a) The commission may not issue to one or more retail licensees more than one
1227 type of retail license for the same building unless the commission determines that:

1228 (i) the licensed premises for each retail license is in a separate room within the
1229 building; and

1230 (ii) the requirements for each retail license are met.

1231 (b) The commission may define "separate room" by rule made in accordance with Title
1232 63G, Chapter 3, Utah Administrative Rulemaking Act.

1233 (2) Notwithstanding Subsection (1), the commission may issue more than one type of
1234 retail license for the same ~~§~~ → [building] room ← ~~§~~ if:

1235 (a) each retail license operates at a different day or time;

1236 (b) the requirements for each retail license are met; and

- 1237 (c) the types of retail licenses issued are:
- 1238 (i) (A) on-premise beer retailer license associated with a ski resort;
- 1239 (B) a full-service restaurant license, a limited-service restaurant license, or a beer-only
- 1240 restaurant license; and
- 1241 (C) an on-premise banquet catering license; or
- 1242 (ii) (A) a full-service restaurant license, a limited-service restaurant license, or a
- 1243 beer-only restaurant license; and
- 1244 (B) an on-premise banquet ~~§~~→ [catering] ←~~§~~ license.
- 1245 (3) (a) If on May 14, 2013, a building has more than one type of retail license within
- 1246 the building in a manner that violates Subsection (1) or (2), the one or more retail licensees
- 1247 may operate under the different types of retail licenses until January 1, 2015.
- 1248 (b) The commission shall establish by rule, made in accordance with Title 63G,
- 1249 Chapter 3, Utah Administrative Rulemaking Act, the process to be followed to determine
- 1250 which retail license described in Subsection (2) may continue to operate within the building on
- 1251 and after January 1, 2015.
- 1252 Section 11. Section **32B-5-301** is amended to read:
- 1253 **32B-5-301. General operational requirements.**
- 1254 (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the
- 1255 rules of the commission, including the relevant part under Chapter 6, Specific Retail License
- 1256 Act, for the specific type of retail license.
- 1257 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
- 1258 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- 1259 (i) a retail licensee;
- 1260 (ii) individual staff of a retail licensee; or
- 1261 (iii) both a retail licensee and staff of the retail licensee.
- 1262 (2) (a) If there is a conflict between this part and the relevant part under Chapter 6,
- 1263 Specific Retail License Act, for the specific type of retail license, the relevant part under
- 1264 Chapter 6 governs.
- 1265 (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail
- 1266 licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product
- 1267 specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

1268 (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail
1269 License Act, refers to "retail licensee," staff of the retail licensee is subject to the same
1270 requirement or prohibition.

1271 (3) (a) A retail licensee shall display in a prominent place in the licensed premises the
1272 retail license that is issued by the department.

1273 (b) A retail licensee shall display in a prominent place a sign in large letters that
1274 consists of text in the following order:

1275 (i) a header that reads: "WARNING";

1276 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1277 can cause birth defects and permanent brain damage for the child.";

1278 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1279 [insert most current toll-free number] with questions or for more information.";

1280 (iv) a header that reads: "WARNING"; and

1281 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1282 serious crime that is prosecuted aggressively in Utah."

1283 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
1284 font style than the text described in Subsections (3)(b)(iv) and (v).

1285 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
1286 same font size.

1287 (d) The Department of Health shall work with the commission and department to
1288 facilitate consistency in the format of a sign required under this section.

1289 (4) A retail licensee may not on the licensed premises:

1290 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1291 Chapter 10, Part 11, Gambling;

1292 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1293 Part 11, Gambling; or

1294 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1295 the risking of something of value for a return or for an outcome when the return or outcome is
1296 based upon an element of chance, excluding the playing of an amusement device that confers
1297 only an immediate and unrecorded right of replay not exchangeable for value.

1298 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in

1299 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
1300 Paraphernalia Act:

1301 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1302 58-37-2; or

1303 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1304 Section 58-37a-3.

1305 (6) Upon the presentation of credentials, at any time during which a retail licensee is
1306 open for the transaction of business, the retail licensee shall immediately:

1307 (a) admit a commissioner, authorized department employee, or law enforcement officer
1308 to the retail licensee's premises; and

1309 (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to
1310 inspect completely:

1311 (i) the entire premises of the retail licensee; and

1312 (ii) the records of the retail licensee.

1313 (7) An individual may not consume an alcoholic product on the licensed premises of a
1314 retail licensee on any day during the period:

1315 (a) beginning one hour after the time of day that the period during which a retail
1316 licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises
1317 begins; and

1318 (b) ending at the time specified in the relevant part under Chapter 6, Specific Retail
1319 License Act, for the type of retail license when the retail licensee may first sell, offer for sale,
1320 or furnish an alcoholic product on the licensed premises on that day.

1321 (8) (a) The time period a retail licensee may sell, offer for sale, or furnish an alcoholic
1322 product is specified in the relevant part under Chapter 6, Specific Retail License Act, for the
1323 type of retail license.

1324 (b) Notwithstanding Subsection (8)(a), a local authority may impose more restrictive
1325 hours during which a retail licensee may sell, offer for sale, or furnish an alcoholic product.

1326 Section 12. Section **32B-5-304** is amended to read:

1327 **32B-5-304. Portions in which alcoholic product may be sold.**

1328 (1) (a) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor
1329 only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated

1330 metered dispensing system approved by the department in accordance with commission rules
1331 adopted under this title, except that:

1332 ~~[(a)]~~ (i) spirituous liquor need not be dispensed through a calibrated metered
1333 dispensing system if used as a secondary flavoring ingredient in a beverage subject to the
1334 following requirements:

1335 ~~[(i)]~~ (A) the secondary ingredient may be dispensed only in conjunction with the
1336 purchase of a primary spirituous liquor;

1337 ~~[(ii)]~~ (B) the secondary ingredient may not be the only spirituous liquor in the
1338 beverage;

1339 ~~[(iii)]~~ (C) the retail licensee shall designate a location where flavorings are stored on
1340 the floor plan submitted to the department; and

1341 ~~[(iv)]~~ (D) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1342 ~~[(b)]~~ (ii) spirituous liquor need not be dispensed through a calibrated metered
1343 dispensing system if used:

1344 ~~[(i)]~~ (A) as a flavoring on a dessert; and

1345 ~~[(ii)]~~ (B) in the preparation of a flaming food dish, drink, or dessert; and

1346 ~~[(c)]~~ (iii) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

1347 (b) A retail licensee may sell, offer for sale, or furnish an individual portion of
1348 spirituous liquor to a patron in more than one container if:

1349 (i) the total amount of spirituous liquor in all of the containers does not exceed 1.5
1350 ounces;

1351 (ii) the retail licensee holds a manufacturing license;

1352 (iii) the portion is provided in separate containers for educational purposes;

1353 (iv) no more than six containers are provided at the same time; and

1354 (v) a patron is offered only one set of containers per day by the retail licensee.

1355 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
1356 individual portion that does not exceed 5 ounces per glass or individual portion.

1357 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
1358 a patron in more than one [glass] container if the total amount of wine does not exceed 5
1359 ounces.

1360 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not

1361 exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

1362 (ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to
1363 exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

1364 (3) (a) A retail licensee may sell, offer for sale, or furnish heavy beer in an original
1365 container at a price fixed by the commission, except that the original container may not exceed
1366 one liter.

1367 (b) A retail licensee may sell, offer for sale, or furnish an individual portion of heavy
1368 beer to a patron in more than one container if:

1369 (i) the total amount of heavy beer in all of the containers does not exceed 12 ounces;

1370 (ii) the retail licensee holds a manufacturing license;

1371 (iii) the portion is provided in separate containers for educational purposes;

1372 (iv) no more than six containers are provided at the same time; and

1373 (v) a patron is offered only one set of containers per day by the retail licensee.

1374 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
1375 original container at a price fixed by the commission, except that the original container may not
1376 exceed one liter.

1377 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
1378 beer for on-premise consumption:

1379 (i) in an open original container; and

1380 (ii) in a container on draft.

1381 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

1382 (i) in a size of container that exceeds two liters; or

1383 (ii) to an individual patron in a size of container that exceeds one liter.

1384 (c) A retail licensee may sell, offer for sale, or furnish an individual portion of beer to a
1385 patron in more than one container if:

1386 (i) the total amount of beer in all of the containers does not exceed 12 ounces;

1387 (ii) the retail licensee holds a manufacturing license;

1388 (iii) the portions are provided in separate containers for educational purposes;

1389 (iv) no more than six containers are provided at the same time; and

1390 (v) a patron is offered only one set of containers per day by the retail licensee.

1391 Section 13. Section **32B-5-309 (Superseded 07/01/13)** is amended to read:

1392 **32B-5-309 (Superseded 07/01/13). Ceasing operation -- Prohibiting transfer of**
1393 **license.**

1394 (1) (a) Except as provided in Subsection (1)(h), a retail licensee may not close or cease
1395 operation for a period longer than 240 hours, unless:

1396 (i) the retail licensee notifies the department in writing at least seven days before the
1397 day on which the retail licensee closes or ceases operation; and

1398 (ii) the closure or cessation of operation is first approved by the department.

1399 (b) Notwithstanding Subsection (1)(a), in the case of emergency closure, a retail
1400 licensee shall immediately notify the department by telephone.

1401 (c) (i) The department may authorize a closure or cessation of operation of a retail
1402 licensee for a period not to exceed 60 days.

1403 (ii) The department may extend the initial period an additional 30 days upon:

1404 (A) written request of the retail licensee; and

1405 (B) a showing of good cause.

1406 (d) A closure or cessation of operation may not exceed a total of 90 days without
1407 commission approval.

1408 (e) A notice required under this Subsection (1) shall include:

1409 (i) the dates of closure or cessation of operation;

1410 (ii) the reason for the closure or cessation of operation; and

1411 (iii) the date on which the retail licensee will reopen or resume operation.

1412 (f) Failure of a retail licensee to provide notice and to obtain department approval
1413 before closure or cessation of operation results in an automatic forfeiture of:

1414 (i) the retail license; and

1415 (ii) the unused portion of the retail license fee for the remainder of the retail license
1416 year effective immediately.

1417 (g) Failure of a retail licensee to reopen or resume operation by the approved date
1418 results in an automatic forfeiture of:

1419 (i) the retail license; and

1420 (ii) the unused portion of the retail license fee for the remainder of the retail license
1421 year.

1422 (h) This Subsection (1) does not apply to:

1423 (i) an on-premise beer retailer who is not a tavern; or
 1424 (ii) an airport lounge licensee.

1425 (2) A retail licensee may not transfer a retail license from one location to another
 1426 location, without prior written approval of the commission. A retail licensee shall pay an
 1427 application fee of \$300 to apply for the written approval of the commission under this
 1428 Subsection (2).

1429 (3) (a) A person, having been issued a retail license may not sell, transfer, assign,
 1430 exchange, barter, give, or attempt in any way to dispose of the retail license to another person
 1431 whether for monetary gain or not.

1432 (b) A retail license has no monetary value for any type of disposition.

1433 Section 14. Section **32B-5-311** is enacted to read:

1434 **32B-5-311. Private events at retail licensee premises.**

1435 ~~§~~ ~~→~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ Subject to ~~§~~ ~~→~~ [Section] Sections ~~←~~ ~~§~~ 32B-5-309 ~~§~~ ~~→~~ and 32B-6-
 1435a 505 ~~←~~ ~~§~~ , a

1435a retail licensee may temporarily rent or otherwise
 1436 temporarily lease its premises to a person after the hours the retail licensee may sell, offer for
 1437 sale, or furnish an alcoholic product if:

1438 ~~§~~ ~~→~~ ~~§~~ ~~→~~ ~~[(1)]~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ the person who temporarily rents or leases the licensed
 1438a1 premises obtains an
 1438a event

1439 permit under Chapter 9, Event Permit Act, for the time period that the retail licensee rents or
 1440 otherwise leases its licensed premises;

1441 ~~§~~ ~~→~~ ~~§~~ ~~→~~ ~~[(2)]~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ the event for which the licensed premises are leased is not
 1441a1 open to the
 1441a public;

1442 ~~§~~ ~~→~~ ~~§~~ ~~→~~ ~~[(3)]~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ the person to whom the retail licensee rents or leases the
 1442a1 premises agrees in
 1442a writing

1443 to comply with this title as if the person is the retail licensee, except for:

1444 ~~§~~ ~~→~~ ~~§~~ ~~→~~ ~~[(a)]~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ a requirement related to making or maintaining a record;
 1444a and

1445 ~~§~~ ~~→~~ ~~§~~ ~~→~~ ~~[(b)]~~ ~~[(†)]~~ ~~←~~ ~~§~~ ~~←~~ ~~§~~ the hours during which an alcoholic product may be sold,
 1445a1 offered for sale,
 1445a or

1446 furnished; and

1447 ~~§~~ ~~→~~ ~~§~~ ~~→~~ [f](4) [f] [~~(d)~~] ~~←~~ ~~§~~ ~~←~~ ~~§~~ the retail licensee takes reasonable steps to ensure that the

1447a1 person complies

1447a with

1448 this section.

1448a ~~§~~ ~~→~~ [~~§~~ ~~→~~ (2) ~~Subject to Sections 32B-5-309 and 32-6-505, a retail licensee may temporarily rent or~~

1448b ~~otherwise temporarily lease its premises for a private event during the hours the retail~~ ~~←~~ ~~§~~

1448c ~~§~~→licensee may sell, offer for sale, or furnish an alcoholic product if:

1448d ~~(a) the person to whom the retail licensee rents or leases the premises agrees in writing to~~

1448e ~~comply with this title as if the person is the retail licensee, except for a requirement related to~~

1448f ~~making or maintaining a record; and~~

1448g ~~(b) the retail licensee takes reasonable steps to ensure that the person complies with this~~

1448h ~~section as provided in Subsection (2)(a).~~ ←§] ←§

1449 Section 15. Section **32B-6-203** is amended to read:

1450 **32B-6-203. Commission's power to issue full-service restaurant license.**

1451 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of

1452 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a

1453 full-service restaurant license from the commission in accordance with this part.

1454 (2) The commission may issue a full-service restaurant license to establish full-service
 1455 restaurant licensed premises at places and in numbers the commission considers proper for the
 1456 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises
 1457 operated as a full-service restaurant.

1458 (3) Subject to Section 32B-1-201:

1459 (a) The commission may not issue a total number of full-service restaurant licenses that
 1460 at any time exceeds the number determined by dividing the population of the state by 4,534.

1461 (b) The commission may issue a seasonal full-service restaurant license in accordance
 1462 with Section 32B-5-206.

1463 (c) (i) If the location, design, and construction of a hotel may require more than one
 1464 full-service restaurant sales location within the hotel to serve the public convenience, the
 1465 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as
 1466 many as three full-service restaurant locations within the hotel under one full-service restaurant
 1467 license if:

1468 (A) the hotel has a minimum of 150 guest rooms; and

1469 (B) the locations under the full-service restaurant license are:

1470 (I) within the same hotel; and

1471 (II) on premises that are managed or operated, and owned or leased, by the full-service
 1472 restaurant licensee.

1473 (ii) A facility other than a hotel shall have a separate full-service restaurant license for
 1474 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

1475 (d) The commission may not issue a single full-service restaurant license to a
 1476 full-service restaurant that would have licensed premises in more than one building ~~§~~ **→ unless**
 1476a **there is continuity in the premises between the multiple buildings after considering one or**
 1476b **more of the following:**
 1476c **(i) whether a patron would go through an unlicensed area to move from one part of the**
 1476d **licensed premises to a different part of the licensed premises;**
 1476e **(ii) whether the buildings share common food preparation facilities;**
 1476f **(iii) whether there is a common entrance to the licensed premises with multiple buildings; and**
 1476g **(iv) any other factor the commission considers relevant** ~~←§~~ .

1477 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
 1478 full-service restaurant license for premises that do not meet the proximity requirements of
 1479 Section 32B-1-202.

1480 (b) With respect to the premises of a full-service restaurant license issued by the

1481 commission that undergoes a change of ownership, the commission shall waive or vary the
1482 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
1483 full-service restaurant license to the new owner of the premises if:

1484 (i) when a full-service restaurant license was issued to a previous owner, the premises

1485 met the proximity requirements of Subsection 32B-1-202(2);

1486 (ii) the premises has had a full-service restaurant license at all times since the
1487 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
1488 and

1489 (iii) the community location was located within the proximity requirements of
1490 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
1491 Subsection (4)(b)(i) was issued.

1492 Section 16. Section **32B-6-205** is amended to read:

1493 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

1494 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1495 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
1496 shall comply with this section.

1497 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1498 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1499 (i) a full-service restaurant licensee;

1500 (ii) individual staff of a full-service restaurant licensee; or

1501 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
1502 licensee.

1503 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
1504 licensee shall display in a prominent place in the restaurant a list of the types and brand names
1505 of liquor being furnished through the full-service restaurant licensee's calibrated metered
1506 dispensing system.

1507 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
1508 shall store an alcoholic product in a storage area described in Subsection (12)(a).

1509 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
1510 licensee's premises shall make a written beverage tab for each table or group that orders or
1511 consumes an alcoholic product on the premises.

1512 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
1513 alcoholic product ordered or consumed.

1514 (5) A person's willingness to serve an alcoholic product may not be made a condition
1515 of employment as a server with a full-service restaurant licensee.

1516 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
1517 the licensed premises on any day during the period that:

1518 (i) begins at midnight; and

1519 (ii) ends at 11:29 a.m.

1520 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
1521 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1522 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
1523 11:30 a.m. on any day.

1524 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
1525 business from the sale of food, which does not include:

1526 (a) mix for an alcoholic product; or

1527 (b) a service charge.

1528 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
1529 alcoholic product except in connection with an order for food prepared, sold, and furnished at
1530 the licensed premises.

1531 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
1532 culinary facilities for food preparation and dining accommodations.

1533 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
1534 more than two alcoholic products of any kind at a time before the patron.

1535 (b) A patron may not have more than one spirituous liquor drink at a time before the
1536 patron.

1537 (c) An individual portion of wine is considered to be one alcoholic product under
1538 Subsection (9)(a).

1539 (10) ~~§~~ ~~(a)~~ ~~←~~ ~~§~~ A patron may consume an alcoholic product only:

1540 ~~§~~ ~~(a)~~ ~~(i)~~ ~~while seated~~ ~~←~~ ~~§~~ at:

1541 ~~§~~ ~~(i)~~ ~~(A)~~ ~~←~~ ~~§~~ the patron's table;

1542 ~~§~~ ~~(ii)~~ ~~(B)~~ ~~←~~ ~~§~~ a counter; or

1543 ~~§~~ ~~(iii)~~ ~~(C)~~ ~~←~~ ~~§~~ a seating grandfathered bar structure; and

1544 ~~§~~ ~~(b)~~ ~~(ii)~~ ~~←~~ ~~§~~ where food is served.

1545 ~~§~~ ~~(b)~~ ~~A patron may not be served or consume an alcoholic product anywhere on the~~
1546 ~~licensed premises other than at a location described in Subsection (10)(a) regardless of its~~ ~~←~~ ~~§~~

1547 ~~§→proximity to a location described in Subsection (10)(a).]~~ ←§

1548 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
1549 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1550 structure that is not a seating grandfathered bar structure.

1551 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
1552 may:

1553 (i) sit;

1554 (ii) be furnished an alcoholic product; and

1555 (iii) consume an alcoholic product.

1556 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
1557 full-service restaurant licensee may not permit a minor to, and a minor may not:

1558 (i) sit; or

1559 (ii) consume food or beverages.

1560 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
1561 by a full-service restaurant licensee:

1562 (A) as provided in Subsection 32B-5-308(2); or

1563 (B) to perform maintenance and cleaning services during an hour when the full-service
1564 restaurant licensee is not open for business.

1565 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
1566 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
1567 premises in which the minor is permitted to be.

1568 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
1569 may dispense an alcoholic product only if:

1570 (a) the alcoholic product is dispensed from:

1571 (i) a grandfathered bar structure;

1572 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
1573 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
1574 12, 2009; or

1575 (iii) an area that is:

1576 (A) separated from an area for the consumption of food by a patron by a solid,
1577 translucent, permanent structural barrier such that the facilities for the storage or dispensing of

1578 an alcoholic product are:

1579 (I) not readily visible to a patron; and

1580 (II) not accessible by a patron; and

1581 (B) apart from an area used:

1582 (I) for dining;

1583 (II) for staging; or

1584 (III) as a lobby or waiting area;

1585 (b) the full-service restaurant licensee uses an alcoholic product that is:

1586 (i) stored in an area described in Subsection (12)(a); or

1587 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

1588 (A) immediately before the alcoholic product is dispensed it is in an unopened
1589 container;

1590 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
1591 is opened; and

1592 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

1593 (c) any instrument or equipment used to dispense alcoholic product is located in an
1594 area described in Subsection (12)(a).

1595 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
1596 charge or fee made in connection with the sale, service, or consumption of liquor including:

1597 (a) a set-up charge;

1598 (b) a service charge; or

1599 (c) a chilling fee.

1600 (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding

1601 Subsection 32B-6-706(4), a full-service restaurant licensee may not allow a patron to remove a

1602 container containing an alcoholic product from the licensed premises of the full-service

1603 restaurant unless the full-service restaurant licensee holds a package agency under which the

1604 full-service restaurant licensee may sell, offer for sale, or furnish sealed containers of an

1605 alcoholic product.

1605a **§→ (15) Subject to Section 32B-5-309, a full-service restaurant licensee may not temporarily**
1605b **rent or otherwise temporarily lease its premises to a person unless:**

1605c **(a) the person to whom the full-service restaurant licensee rents or leases the premises**
1605d **agrees in writing to comply with this title as if the person is the full-service restaurant licensee,**

1605e **except for a requirement related to making or maintaining a record; and**

1605f **(b) the full-service restaurant licensee takes reasonable steps to ensure that the**

1605g person complies with this title as provided in Subsection (15)(a). ←§

1606 Section 17. Section **32B-6-303** is amended to read:

1607 **32B-6-303. Commission's power to issue limited-service restaurant license.**

1608 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of

1609 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first
 1610 obtain a limited-service restaurant license from the commission in accordance with this part.

1611 (2) (a) The commission may issue a limited-service restaurant license to establish
 1612 limited-service restaurant licensed premises at places and in numbers the commission considers
 1613 proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or
 1614 beer on premises operated as a limited-service restaurant.

1615 (b) A person may not sell, offer for sale, furnish, or allow the consumption of the
 1616 following on the licensed premises of a limited-service restaurant licensee:

- 1617 (i) spirituous liquor; or
- 1618 (ii) a flavored malt beverage.

1619 (3) Subject to Section 32B-1-201:

1620 (a) The commission may not issue a total number of limited-service restaurant licenses
 1621 that at any time exceeds the number determined by dividing the population of the state by
 1622 7,493.

1623 (b) The commission may issue a seasonal limited-service restaurant license in
 1624 accordance with Section 32B-5-206.

1625 (c) (i) If the location, design, and construction of a hotel may require more than one
 1626 limited-service restaurant sales location within the hotel to serve the public convenience, the
 1627 commission may authorize the sale of wine, heavy beer, and beer at as many as three
 1628 limited-service restaurant locations within the hotel under one limited-service restaurant license
 1629 if:

1630 (A) the hotel has a minimum of 150 guest rooms; and

1631 (B) the locations under the limited-service restaurant license are:

1632 (I) within the same hotel; and

1633 (II) on premises that are managed or operated, and owned or leased, by the
 1634 limited-service restaurant licensee.

1635 (ii) A facility other than a hotel shall have a separate limited-service restaurant license
 1636 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
 1637 furnished.

1638 (d) The commission may not issue a single limited-service restaurant license to a
 1639 limited-service restaurant that would have licensed premises in more than one building ~~§~~**→unless**
 1639a **there is continuity in the premises between the multiple buildings after considering one or**
 1639b **more of the following:**
 1639c **(i) whether a patron would go through an unlicensed area to move from one part of** ~~←~~**§**

- 1639d **§→the licensed premises to a different part of the licensed premises;**
- 1639e **(ii) whether the buildings share common food preparation facilities;**
- 1639f **(iii) whether there is a common entrance to the licensed premises with multiple buildings; and**
- 1639g **(iv) any other factor the commission considers relevant←§.**

1640 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
1641 limited-service restaurant license for premises that do not meet the proximity requirements of
1642 Section 32B-1-202.

1643 (b) With respect to the premises of a limited-service restaurant license issued by the
1644 commission that undergoes a change of ownership, the commission shall waive or vary the
1645 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
1646 limited-service restaurant license to the new owner of the premises if:

1647 (i) when a limited-service restaurant license was issued to a previous owner, the
1648 premises met the proximity requirements of Subsection 32B-1-202(2);

1649 (ii) the premises has had a limited-service restaurant license at all times since the
1650 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
1651 variance; and

1652 (iii) the community location was located within the proximity requirements of
1653 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
1654 described in Subsection (4)(b)(i) was issued.

1655 Section 18. Section **32B-6-305** is amended to read:

1656 **32B-6-305. Specific operational requirements for a limited-service restaurant**
1657 **license.**

1658 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1659 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
1660 licensee shall comply with this section.

1661 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1662 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1663 (i) a limited-service restaurant licensee;

1664 (ii) individual staff of a limited-service restaurant licensee; or

1665 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
1666 licensee.

1667 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
1668 for sale, furnish, or allow consumption of:

1669 (i) spirituous liquor; or

1670 (ii) a flavored malt beverage.

1671 (b) A product listed in Subsection (2)(a) may not be on the premises of a
1672 limited-service restaurant licensee except for use:

1673 (i) as a flavoring on a dessert; and

1674 (ii) in the preparation of a flaming food dish, drink, or dessert.

1675 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
1676 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

1677 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
1678 licensee's premises shall make a written beverage tab for each table or group that orders or
1679 consumes an alcoholic product on the premises.

1680 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
1681 alcoholic product ordered or consumed.

1682 (5) A person's willingness to serve an alcoholic product may not be made a condition
1683 of employment as a server with a limited-service restaurant licensee.

1684 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
1685 or heavy beer at the licensed premises on any day during the period that:

1686 (i) begins at midnight; and

1687 (ii) ends at 11:29 a.m.

1688 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
1689 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1690 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
1691 before 11:30 a.m. on any day.

1692 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
1693 restaurant business from the sale of food, which does not include a service charge.

1694 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
1695 alcoholic product except in connection with an order for food prepared, sold, and furnished at
1696 the licensed premises.

1697 (b) A limited-service restaurant licensee shall maintain on the licensed premises
1698 adequate culinary facilities for food preparation and dining accommodations.

1699 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
1700 more than two alcoholic products of any kind at a time before the patron.

1701 (b) An individual portion of wine is considered to be one alcoholic product under

1702 Subsection (9)(a).

1703 (10) ~~§~~→ ~~[(a)]~~ ←~~§~~ A patron may consume an alcoholic product only:

1704 ~~§~~→ [f] (a) [f] ~~(i) while seated~~ ←~~§~~ at:

1705 ~~§~~→ [f] (i) [f] ~~[(A)]~~ ←~~§~~ the patron's table;

1706 ~~§~~→ [f] (ii) [f] ~~[(B)]~~ ←~~§~~ a counter; or

1707 ~~§~~→ [f] (iii) [f] ~~[(C)]~~ ←~~§~~ a seating grandfathered bar structure; and

1708 ~~§~~→ [f] (b) [f] ~~[(ii)]~~ ←~~§~~ where food is served.

1709 ~~§~~→ ~~[(b) A patron may not be served or consume an alcoholic product anywhere on the~~

1710 ~~licensed premises other than at a location described in Subsection (10)(a) regardless of its~~

1711 ~~proximity to a location described in Subsection (10)(a).]~~ ←~~§~~

1712 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an

1713 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar

1714 structure that is not a seating grandfathered bar structure.

1715 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older

1716 may:

1717 (i) sit;

1718 (ii) be furnished an alcoholic product; and

1719 (iii) consume an alcoholic product.

1720 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a

1721 limited-service restaurant licensee may not permit a minor to, and a minor may not:

1722 (i) sit; or

1723 (ii) consume food or beverages.

1724 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed

1725 by a limited-service restaurant licensee:

1726 (A) as provided in Subsection 32B-5-308(2); or

1727 (B) to perform maintenance and cleaning services during an hour when the

1728 limited-service restaurant licensee is not open for business.

1729 (ii) A minor may momentarily pass by a seating grandfathered bar structure without

1730 remaining or sitting at the bar structure en route to an area of a limited-service restaurant

1731 licensee's premises in which the minor is permitted to be.

1732 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant

1733 licensee may dispense an alcoholic product only if:

1734 (a) the alcoholic product is dispensed from:

1735 (i) a grandfathered bar structure;

1736 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
1737 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
1738 12, 2009; or

1739 (iii) an area that is:

1740 (A) separated from an area for the consumption of food by a patron by a solid,
1741 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1742 an alcoholic product are:

1743 (I) not readily visible to a patron; and

1744 (II) not accessible by a patron; and

1745 (B) apart from an area used:

1746 (I) for dining;

1747 (II) for staging; or

1748 (III) as a lobby or waiting area;

1749 (b) the limited-service restaurant licensee uses an alcoholic product that is:

1750 (i) stored in an area described in Subsection (12)(a); or

1751 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

1752 (A) immediately before the alcoholic product is dispensed it is in an unopened
1753 container;

1754 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
1755 is opened; and

1756 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

1757 (c) any instrument or equipment used to dispense alcoholic product is located in an
1758 area described in Subsection (12)(a).

1759 (13) A limited-service restaurant licensee may state in a food or alcoholic product
1760 menu a charge or fee made in connection with the sale, service, or consumption of wine or
1761 heavy beer including:

1762 (a) a set-up charge;

1763 (b) a service charge; or

1764 (c) a chilling fee.

1765 (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding
 1766 Subsection 32B-6-706(4), a limited-service restaurant licensee may not allow a patron to
 1767 remove a container containing an alcoholic product from the licensed premises of the
 1768 limited-service restaurant unless the limited-service restaurant licensee holds a package agency
 1769 under which the limited-service restaurant licensee may sell, offer for sale, or furnish sealed
 1770 containers of an alcoholic product.

1770a **§→ (15) Subject to Section 32B-5-309, a limited-service restaurant licensee may not**
 1770b **temporarily rent or otherwise temporarily lease its premises to a person unless:**

1770c **(a) the person to whom the limited-service restaurant licensee rents or leases the**
 1770d **premises agrees in writing to comply with this title as if the person is the limited-service**

1770e **restaurant licensee, except for a requirement related to making or maintaining a record; and**

1770f **(b) the limited-service restaurant licensee takes reasonable steps to ensure that the**
 1770g **person complies with this title as provided in Subsection (15)(a). ←§**

1771 Section 19. Section 32B-6-903 is amended to read:

1772 **32B-6-903. Commission's power to issue beer-only restaurant license.**

1773 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
 1774 beer on its premises as a beer-only restaurant, the person shall first obtain a beer-only
 1775 restaurant license from the commission in accordance with this part.

1776 (2) (a) The commission may issue a beer-only restaurant license to establish beer-only
 1777 restaurant licensed premises at places and in numbers the commission considers proper for the
 1778 storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a
 1779 beer-only restaurant.

1780 (b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on
 1781 the licensed premises of a beer-only restaurant licensee.

1782 (3) (a) Only one beer-only restaurant license is required for each building or resort
 1783 facility owned or leased by the same person.

1784 (b) A separate license is not required for each beer-only restaurant license dispensing
 1785 location in the same building or on the same resort premises owned or operated by the same
 1786 person.

1787 (c) Except as provided in Subsections (3)(a) and (b), the commission may not issue a
 1788 single beer-only restaurant license to a beer-only restaurant that would have licensed premises
 1789 in more than one building. §→ **unless there is continuity in the premises between the multiple**
 1789a **buildings after considering one or more of the following:**

1789b **(i) whether a patron would go through an unlicensed area to move from one part of the**
 1789c **licensed premises to a different part of the licensed premises;**

1789d **(ii) whether the buildings share common food preparation facilities;**

1789e **(iii) whether there is a common entrance to the licensed premises with multiple buildings; and**

1789f **(iv) any other factor the commission considers relevant** ←§.

1790 (4) (a) Except as provided in Subsection (4)(b) or (c), the commission may not issue a
1791 beer-only restaurant license for premises that do not meet the proximity requirements of
1792 Section 32B-1-202.

1793 (b) With respect to the premises of a beer-only restaurant license issued by the
1794 commission that undergoes a change of ownership, the commission shall waive or vary the

1795 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
1796 beer-only restaurant license to the new owner of the premises if:

1797 (i) when a beer-only restaurant license was issued to a previous owner, the premises
1798 met the proximity requirements of Subsection 32B-1-202(2);

1799 (ii) the premises has had a beer-only restaurant license at all times since the beer-only
1800 restaurant license described in Subsection (4)(b)(i) was issued without a variance; and

1801 (iii) the community location was located within the proximity requirements of
1802 Subsection 32B-1-202(2) after the day on which the beer-only restaurant license described in
1803 Subsection (4)(b)(i) was issued.

1804 (c) The location of the licensed premises of an on-premise beer retailer who is licensed
1805 as of July 1, 2011, is grandfathered and not required to meet the proximity requirements of
1806 Section 32B-1-202 if the on-premise beer retailer obtains a beer-only restaurant license by not
1807 later than March 1, 2012. A location grandfathered under this Subsection (4)(c) is considered
1808 grandfathered notwithstanding that the beer-only restaurant license undergoes a change of
1809 ownership.

1810 Section 20. Section **32B-6-905** is amended to read:

1811 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

1812 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1813 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
1814 shall comply with this section.

1815 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1816 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1817 (i) a beer-only restaurant licensee;

1818 (ii) individual staff of a beer-only restaurant licensee; or

1819 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

1820 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
1821 sale, furnish, or allow consumption of liquor.

1822 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

1823 (i) as a flavoring on a dessert; and

1824 (ii) in the preparation of a flaming food dish, drink, or dessert.

1825 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee

1826 shall store beer in a storage area described in Subsection (12)(a).

1827 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
1828 make a written beverage tab for each table or group that orders or consumes an alcoholic
1829 product on the premises.

1830 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
1831 beer ordered or consumed.

1832 (5) A person's willingness to serve beer may not be made a condition of employment as
1833 a server with a beer-only restaurant licensee.

1834 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
1835 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1836 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1837 11:30 a.m. on any day.

1838 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
1839 business from the sale of food, which does not include a service charge.

1840 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except in
1841 connection with an order for food prepared, sold, and furnished at the licensed premises.

1842 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1843 facilities for food preparation and dining accommodations.

1844 (9) A patron may not have more than two beers at a time before the patron.

1845 (10) ~~§~~→ ~~[(a)]~~ ←~~§~~ A patron may consume a beer only:

1846 ~~§~~→ [f] (a) [f] ~~[(i) while seated]~~ ←~~§~~ at:

1847 ~~§~~→ [f] (i) [f] ~~[(A)]~~ ←~~§~~ the patron's table;

1848 ~~§~~→ [f] (ii) [f] ~~[(B)]~~ ←~~§~~ a grandfathered bar structure; or

1849 ~~§~~→ [f] (iii) [f] ~~[(C)]~~ ←~~§~~ a counter; and

1850 ~~§~~→ [f] (b) [f] ~~[(ii)]~~ ←~~§~~ where food is served.

1851 ~~§~~→ ~~[(b) A patron may not be served or consume an alcoholic product anywhere on the~~
1852 ~~licensed premises other than at a location described in Subsection (10)(a) regardless of its~~
1853 ~~proximity to a location described in Subsection (10)(a).]~~ ←~~§~~

1854 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
1855 a patron, and a patron may not consume an alcoholic product at a bar structure.

1856 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who

1857 is 21 years of age or older may:

1858 (i) sit;

1859 (ii) be furnished a beer; and

1860 (iii) consume a beer.

1861 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
1862 beer-only restaurant licensee may not permit a minor to, and a minor may not:

1863 (i) sit; or

1864 (ii) consume food or beverages.

1865 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
1866 beer-only restaurant licensee:

1867 (A) as provided in Subsection 32B-5-308(2); or

1868 (B) to perform maintenance and cleaning services during an hour when the beer-only
1869 restaurant licensee is not open for business.

1870 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining
1871 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in
1872 which the minor is permitted to be.

1873 (12) A beer-only restaurant licensee may dispense a beer only if:

1874 (a) the beer is dispensed from an area that is:

1875 (i) a grandfathered bar structure; or

1876 (ii) separated from an area for the consumption of food by a patron by a solid,
1877 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1878 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
1879 from an area used for dining, for staging, or as a lobby or waiting area;

1880 (b) the beer-only restaurant licensee uses a beer that is:

1881 (i) stored in an area described in Subsection (12)(a); or

1882 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

1883 (A) immediately before the beer is dispensed it is in an unopened container;

1884 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
1885 is opened; and

1886 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

1887 (c) any instrument or equipment used to dispense the beer is located in an area

1888 described in Subsection (12)(a).

1889 (13) Notwithstanding Subsection 32B-6-706(4), a beer-only restaurant licensee may
 1890 not allow a patron to remove a container containing an alcoholic product from the licensed
 1891 premises of the beer-only restaurant unless the beer-only restaurant licensee holds a package
 1892 agency under which the beer-only restaurant licensee may sell, offer for sale, or furnish sealed
 1893 containers of beer.

1893a **§→ (14) Subject to Section 32B-5-309, a beer-only restaurant licensee may not temporarily**
 1893b **rent or otherwise temporarily lease its premises to a person unless:**

1893c **(a) the person to whom the beer-only restaurant licensee rents or leases the premises**
 1893d **agrees in writing to comply with this title as if the person is the beer-only restaurant licensee,**
 1893e **except for a requirement related to making or maintaining a record; and**

1893f **(b) the beer-only restaurant licensee takes reasonable steps to ensure that the person**
 1893g **complies with this title as provided in Subsection (14)(a). ←§**

1894 Section 21. Section 32B-8-304 is amended to read:

1895 **32B-8-304. Specific operational requirements for resort spa sublicense.**

1896 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
 1897 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
 1898 resort spa sublicense shall comply with this section.

1899 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)
 1900 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
 1901 Enforcement Act, against:

- 1902 (i) a retail licensee;
- 1903 (ii) staff of the retail licensee;
- 1904 (iii) a person otherwise related to a resort spa sublicense; or
- 1905 (iv) any combination of the persons listed in this Subsection (1)(b).

1906 (2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
 1907 record required by this title is maintained, and a record is maintained or used for the resort spa
 1908 sublicense:

- 1909 (i) as the department requires; and
- 1910 (ii) for a minimum period of three years.

1911 (b) A record is subject to inspection by an authorized representative of the commission
 1912 and the department.

1913 (c) A resort licensee shall allow the department, through an auditor or examiner of the
1914 department, to audit the records for a resort spa sublicense at the times the department
1915 considers advisable.

1916 (d) The department shall audit the records for a resort spa sublicense at least once
1917 annually.

1918 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in

1919 accordance with this Subsection (2).

1920 (3) (a) A person operating under a resort spa sublicense may not sell, offer for sale, or
1921 furnish liquor at a resort spa during a period that:

1922 (i) begins at 1 a.m.; and

1923 (ii) ends at 9:59 a.m.

1924 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
1925 beer during the hours specified in Chapter 6, Part 7, On-premise Beer Retailer License, for an
1926 on-premise beer retailer.

1927 (c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for
1928 one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
1929 which time a person at the resort spa may finish consuming:

1930 (A) a single drink containing spirituous liquor;

1931 (B) a single serving of wine not exceeding five ounces;

1932 (C) a single serving of heavy beer;

1933 (D) a single serving of beer not exceeding 26 ounces; or

1934 (E) a single serving of a flavored malt beverage.

1935 (ii) A resort spa is not required to remain open:

1936 (A) after all persons have vacated the resort spa sublicense premises; or

1937 (B) during an emergency.

1938 (4) A minor may not be admitted into, use, or be on:

1939 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
1940 age or older; or

1941 (b) a lounge or bar area of the resort spa sublicense premises.

1942 (5) A resort spa shall have food available at all times when an alcoholic product is sold,
1943 offered for sale, furnished, or consumed on the resort spa sublicense premises.

1944 (6) (a) Subject to the other provisions of this Subsection (6), a patron may not have
1945 more than two alcoholic products of any kind at a time before the patron.

1946 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa
1947 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for
1948 the other spirituous liquor drink.

1949 (c) An individual portion of wine is considered to be one alcoholic product under this

1950 Subsection (6).

1951 (7) (a) An alcoholic product may only be consumed ~~Ŝ→~~ [while sitting] ~~←Ŝ~~ at a table or
1951a counter.

1952 ~~Ŝ→~~ [A patron may not consume an alcoholic product anywhere on the sublicensed premises other
1953 than at a location described in this Subsection (7)(a) regardless of its proximity to a location
1954 described in this Subsection (7)(a).] ~~←Ŝ~~

1955 (b) An alcoholic product may not be served to or consumed by a patron at a bar.

1956 (8) (a) A person operating under a resort spa sublicense shall have available on the
1957 resort spa sublicense premises for a patron to review at the time that the patron requests it, a
1958 written alcoholic product price list or a menu containing the price of an alcoholic product sold
1959 or furnished by the resort spa including:

- 1960 (i) a set-up charge;
- 1961 (ii) a service charge; or
- 1962 (iii) a chilling fee.

1963 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
1964 may be stated in food or alcoholic product menus including:

- 1965 (i) a set-up charge;
- 1966 (ii) a service charge; or
- 1967 (iii) a chilling fee.

1968 (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's
1969 activities.

1970 (b) A resort licensee may not maintain premises in a manner that barricades or conceals
1971 the resort spa sublicense's operation.

1972 (10) Subject to the other provisions of this section, a person operating under a resort
1973 spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or use
1974 the resort spa sublicense premises other than:

- 1975 (a) a resident;
- 1976 (b) a public customer who holds a valid customer card issued under Subsection (12); or
- 1977 (c) an invitee.

1978 (11) A person operating under a resort spa sublicense may allow an individual to be
1979 admitted to or use the resort spa sublicense premises as an invitee subject to the following
1980 conditions:

1981 (a) the individual shall be previously authorized by one of the following who agrees to
1982 host the individual as an invitee into the resort spa:

1983 (i) a resident; or

1984 (ii) a public customer as described in Subsection (10);

1985 (b) the individual has only those privileges derived from the individual's host for the
1986 duration of the invitee's visit to the resort spa; and

1987 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter
1988 into an agreement or arrangement with a resident or public customer to indiscriminately host a
1989 member of the general public into the resort spa as an invitee.

1990 (12) A person operating under a resort spa sublicense may issue a customer card to
1991 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
1992 under the following conditions:

1993 (a) the resort spa may not issue a customer card for a time period that exceeds three
1994 weeks;

1995 (b) the resort spa shall assess a fee to a public customer for a customer card;

1996 (c) the resort spa may not issue a customer card to a minor; and

1997 (d) a public customer may not host more than seven invitees at one time.

1998 Section 22. Section **32B-9-204** is amended to read:

1999 **32B-9-204. General operational requirements for an event permit.**

2000 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
2001 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
2002 with this title and rules of the commission.

2003 (b) Failure to comply as provided in Subsection (1)(a):

2004 (i) may result in:

2005 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
2006 Enforcement Act, against:

2007 (I) an event permittee;

2008 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
2009 product at the event; or

2010 (III) any combination of the persons listed in this Subsection (1)(b);

2011 (B) immediate revocation of the event permit;

2012 (C) forfeiture of a bond; or
2013 (D) immediate seizure of an alcoholic product present at the event; and
2014 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
2015 event permit for a period of three years from the date of revocation of the event permit.
2016 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
2017 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.
2018 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
2019 the specific type of special use permit held by the special use permittee, the relevant part
2020 governs.
2021 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
2022 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
2023 relevant part under this chapter for the type of event permit that is held by the event permittee.
2024 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
2025 event permit held by an event permittee refers to "event permittee," a person involved in the
2026 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
2027 event permit is issued is subject to the same requirement or prohibition.
2028 (3) An event permittee shall display a copy of the event permit in a prominent place in
2029 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.
2030 (4) An event permittee may not on the premises of the event:
2031 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
2032 Chapter 10, Part 11, Gambling;
2033 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2034 Part 11, Gambling; or
2035 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2036 the risking of something of value for a return or for an outcome when the return or outcome is
2037 based upon an element of chance, excluding the playing of an amusement device that confers
2038 only an immediate and unrecorded right of replay not exchangeable for value.
2039 (5) An event permittee may not knowingly allow a person at an event to, in violation of
2040 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
2041 Paraphernalia Act:
2042 (a) sell, distribute, possess, or use a controlled substance, as defined in Section

2043 58-37-2; or

2044 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2045 Section 58-37a-3.

2046 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
2047 purchases from:

2048 (a) a beer wholesaler licensee;

2049 (b) a beer retailer; or

2050 (c) a small brewer.

2051 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
2052 consumption of an alcoholic product purchased for an event in a location other than that
2053 described in the application and designated on the event permit unless the event permittee first
2054 applies for and receives approval from the director, with the approval of the Compliance,
2055 Licensing, and Enforcement Subcommittee, for a change of location.

2056 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
2057 furnish beer for on-premise consumption:

2058 (i) in an open original container; and

2059 (ii) in a container on draft.

2060 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
2061 Subsection (8)(a):

2062 (i) in a size of container that exceeds two liters; or

2063 (ii) to an individual patron in a size of container that exceeds one liter.

2064 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
2065 than the cost of the alcoholic product to the event permittee.

2066 (b) An event permittee may not sell an alcoholic product at a discount price on any date
2067 or at any time.

2068 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that
2069 encourages over consumption or intoxication.

2070 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or
2071 reduced price for only certain hours of the day of an event.

2072 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
2073 product at the price of a single alcoholic product.

2074 (f) An event permittee, or a person operating, selling, offering, or furnishing an
2075 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
2076 unlimited number of alcoholic products during a set period for a fixed price, unless:

2077 (i) the alcoholic product is served to a patron at a seated event;

2078 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
2079 furnished; and

2080 (iii) no person advertises that at the event a person may be sold or furnished an
2081 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

2082 (g) An event permittee may not engage in a public promotion involving or offering a
2083 free alcoholic product to the general public.

2084 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

2085 (a) a minor;

2086 (b) a person actually, apparently, or obviously intoxicated;

2087 (c) a known interdicted person; or

2088 (d) a known habitual drunkard.

2089 (11) (a) An alcoholic product is considered under the control of the event permittee
2090 during an event.

2091 (b) A patron at an event may not bring an alcoholic product onto the premises of the
2092 event.

2093 (12) An event permittee may not permit a patron to carry from the premises an open
2094 container that:

2095 (a) is used primarily for drinking purposes; and

2096 (b) contains an alcoholic product.

2097 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at
2098 an event is considered under the supervision and direction of the event permittee.

2099 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
2100 an event may not, while on duty:

2101 (i) consume an alcoholic product; or

2102 (ii) be intoxicated.

2103 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
2104 event.

2105 (15) The location specified in an event permit may not be changed without prior
2106 written approval of the commission. An event permittee shall pay an application fee of \$300 to
2107 apply for the written approval of the commission under this Subsection (15).

2108 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
2109 attempt in any way to dispose of the event permit to another person whether for monetary gain
2110 or not.

2111 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the
2112 consumption of an alcoholic product during a period that:

2113 (i) begins at 1 a.m.; and

2114 (ii) ends at 9:59 a.m.

2115 (b) This Subsection (17) does not preclude a local authority from being more restrictive
2116 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic
2117 product at an event.

2118 (18) A patron may have no more than one alcoholic product of any kind at a time
2119 before the patron.

2120 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters
2121 that consists of text in the following order:

2122 (i) a header that reads: "WARNING";

2123 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
2124 can cause birth defects and permanent brain damage for the child.";

2125 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
2126 [insert most current toll-free number] with questions or for more information.";

2127 (iv) a header that reads: "WARNING"; and

2128 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
2129 serious crime that is prosecuted aggressively in Utah."

2130 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
2131 font style than the text described in Subsections (19)(a)(iv) and (v).

2132 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
2133 same font size.

2134 (c) The Department of Health shall work with the commission and department to
2135 facilitate consistency in the format of a sign required under this section.

2136 Section 23. Section **32B-10-206** is amended to read:

2137 **32B-10-206. General operational requirements for special use permit.**

2138 (1) (a) A special use permittee and staff of the special use permittee shall comply with
2139 this title and rules of the commission, including the relevant part of the chapter that applies to
2140 the type of special use permit held by the special use permittee.

2141 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2142 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2143 (i) a special use permittee;

2144 (ii) individual staff of a special use permittee; or

2145 (iii) a special use permittee and staff of the special use permittee.

2146 (c) The commission may suspend or revoke a special use permit with or without cause.

2147 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
2148 the specific type of special use permit, the relevant part under this chapter governs.

2149 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a
2150 special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or
2151 manufacture an alcoholic product authorized for the special use permit that is held by the
2152 special use permittee.

2153 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
2154 special use permit held by a special use permittee refers to "special use permittee," a person
2155 involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of
2156 an alcoholic product for which the special use permit is issued is subject to the same
2157 requirement or prohibition.

2158 (3) (a) A special use permittee shall make and maintain a record, as required by
2159 commission rule, of any alcoholic product purchased, used, sold, or manufactured.

2160 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2161 accordance with this Subsection (3).

2162 (4) (a) Except as otherwise provided in this title, a special use permittee may not
2163 purchase liquor except from a state store or package agency.

2164 (b) A special use permittee may transport liquor purchased by the special use permittee
2165 in accordance with this Subsection (4) from the place of purchase to the special use permittee's
2166 premises.

2167 (c) A special use permittee shall purchase liquor at prices set by the commission.

2168 (d) When authorized by a special use permit, a special use permittee may purchase and
2169 receive an alcoholic product directly from a manufacturer for a purpose that is industrial,
2170 educational, scientific, or manufacturing.

2171 (e) A health care facility may purchase and receive an alcoholic product directly from a
2172 manufacturer for use at the health care facility.

2173 (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish,
2174 manufacture, or allow consumption of an alcoholic product in a location other than as
2175 designated in a special use permittee's application.

2176 (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or
2177 furnish an alcoholic product to:

2178 (a) a minor;

2179 (b) a person actually, apparently, or obviously intoxicated;

2180 (c) a known interdicted person; or

2181 (d) a known habitual drunkard.

2182 (7) A special use permittee may not employ a minor to handle an alcoholic product.

2183 (8) (a) The location specified in a special use permit may not be transferred from one
2184 location to another location, without prior written approval of the commission. A special use
2185 permittee shall pay an application fee of \$300 to apply for the written approval of the
2186 commission under this Subsection (8)(a).

2187 (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or
2188 attempt in any way to dispose of the permit to another person whether for monetary gain or not.

2189 (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale,
2190 furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized
2191 by the special use permit.

2192 (10) The commission may prescribe by policy or rule consistent with this title, the
2193 general operational requirements of a special use permittee relating to:

2194 (a) physical facilities;

2195 (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an
2196 alcoholic product;

2197 (c) purchase, storage, and sales quantity limitations; and

2198 (d) other matters considered appropriate by the commission.

2199 Section 24. Section **32B-11-208** is amended to read:

2200 **32B-11-208. General operational requirements for manufacturing license.**

2201 (1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply
2202 with this title and the rules of the commission, including the relevant part of this chapter
2203 applicable to the type of manufacturing license held by the manufacturing licensee.

2204 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2205 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2206 (i) a manufacturing licensee;

2207 (ii) individual staff of a manufacturing licensee; or

2208 (iii) a manufacturing licensee and staff of the manufacturing licensee.

2209 (2) A manufacturing licensee shall prominently display the manufacturing license on
2210 the licensed premises.

2211 (3) (a) A manufacturing licensee shall make and maintain the records required by the
2212 department.

2213 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2214 accordance with this Subsection (3).

2215 (4) A manufacturing licensee may not sell liquor within the state except to:

2216 (a) the department; or

2217 (b) a military installation.

2218 (5) A manufacturing license may not be transferred from one location to another
2219 location, without prior written approval of the commission. A manufacturing licensee shall pay
2220 an application fee of \$300 to apply for the written approval of the commission under this
2221 Subsection (5).

2222 (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give,
2223 or attempt in any way to dispose of the license to another person, whether for monetary gain or
2224 not.

2225 (b) A manufacturing license has no monetary value for any type of disposition.

2226 (7) A manufacturing licensee may not advertise its product in violation of this title or
2227 any other federal or state law, except that nothing in this title prohibits the advertising or
2228 solicitation of an order for industrial alcohol from a holder of a special use permit.

2229 (8) A manufacturing licensee shall from time to time, on request of the department,
2230 furnish for analytical purposes a sample of the alcoholic product that the manufacturing
2231 licensee has:

2232 (a) for sale; or

2233 (b) in the course of manufacture for sale in this state.

2234 (9) The commission may prescribe by policy or rule, consistent with this title, the
2235 general operational requirements of a manufacturing licensee relating to:

2236 (a) physical facilities;

2237 (b) conditions of storage, sale, or manufacture of an alcoholic product;

2238 (c) storage and sales quantity limitations; and

2239 (d) other matters considered appropriate by the commission.

2240 Section 25. Section **32B-12-301** is amended to read:

2241 **32B-12-301. General operational requirements for liquor warehousing license.**

2242 (1) (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall
2243 comply with this title and the rules of the commission.

2244 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2245 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2246 (i) a liquor warehouser licensee;

2247 (ii) individual staff of a liquor warehouser licensee; or

2248 (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.

2249 (2) (a) A liquor warehouser licensee shall make and maintain records required by the
2250 department.

2251 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2252 accordance with this Subsection (2).

2253 (3) A liquor warehousing license may not be transferred from one location to another
2254 location, without prior written approval of the commission. A liquor warehousing licensee
2255 shall pay an application fee of \$300 to apply for the written approval of the commission under
2256 this Subsection (3).

2257 (4) (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter,
2258 give, or attempt in any way to dispose of the license to another person, whether for monetary
2259 gain or not.

2260 (b) A liquor warehousing license has no monetary value for any type of disposition.

2261 (5) A liquor warehouser licensee may not employ a minor to handle an alcoholic
2262 product.

2263 (6) Liquor that is warehoused in this state and sold to an out-of-state consignee, may be
2264 transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor
2265 Carrier Safety Act.

2266 (7) Liquor that is warehoused in this state and sold to the department may be
2267 transported only by a motor carrier approved by the department.

2268 (8) Liquor transported to or from a liquor warehouser licensee's licensed premises shall
2269 be carried in a sealed conveyance that is made available for inspection by the department while
2270 en route within the state.

2271 (9) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor
2272 from a warehouse in less than a full case lot.

2273 (10) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor
2274 from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or
2275 retailer by the state in which the consignee is domiciled.

2276 (11) A liquor warehouser licensee may not receive, warehouse, distribute, transport,
2277 ship, or convey liquor that the commission has not authorized the liquor warehouser licensee to
2278 handle through its warehouse.

2279 (12) The commission may prescribe by policy or rule, consistent with this title, the
2280 general operational requirements of licensees relating to:

2281 (a) physical facilities;

2282 (b) conditions of storage, distribution, or transport of liquor; and

2283 (c) other matters considered appropriate by the commission.

2284 Section 26. **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session,**

2285 **Chapter 1** is amended to read:

2286 Section 7. **Uncodified Section 110, Laws of Utah 2011, Chapter 334** is amended to
2287 read:

2288 Section 110. **Effective date.**

2289 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

2290 (2) (a) The repeal of Subsection 32B-6-603(4) [~~Effective 07/01/11~~] in this bill takes

2291 effect on November 1, 2011.

2292 (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes
2293 effect on November 1, 2011.

2294 (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill
2295 takes effect on March 1, 2012.

2296 (d) The following take effect on July 1, [2013] 2014:

2297 (i) Section 32B-5-309 [~~Effective 07/01/11~~] (Effective 07/01/13) as amended by this
2298 bill; and

2299 (ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.

2300 Section 27. **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session,**
2301 **Chapter 1** is amended to read:

2302 Section 8. **Uncodified Section 24, Laws of Utah 2012, Chapter 365** is amended to
2303 read:

2304 Section 24. **Effective date.**

2305 This bill takes effect on July 1, 2012, except that the amendments made to Section
2306 32B-8a-302 [~~Effective 07/01/12~~] (Effective 07/01/13), and Section 32B-8a-303 [~~Effective~~
2307 ~~07/01/12~~] (Effective 07/01/13), in this bill take effect on July 1, [2013] 2014.

2308 Section 28. **Appropriation.**

2309 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
2310 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
2311 are appropriated from resources not otherwise appropriated, or reduced from amounts
2312 previously appropriated, out of the funds or accounts indicated. These sums of money are in
2313 addition to any amounts previously appropriated for fiscal year 2014:

2314 To Attorney General - Administration

2315 From Alcoholic Beverage Control Act Legal Fund \$130,000

2316 Schedule of Programs:

2317 Administration \$130,000

2318 The Legislature intends that the money appropriated be used to enforce Title 32B,
2319 Alcoholic Beverage Control Act, as provided in Section 32B-2-307.

2320 Section 29. **Revisor instructions.**

2321 The Legislature intends that the Office of Legislative Research and General Counsel, in

2322 preparing the Utah Code database for publication do the following:

2323 (1) change the superseding date in Section 32B-5-309 (Superseded 07/01/13) from July
2324 1, 2013 to July 1, 2014;

2325 (2) change the effective date in Section 32B-5-309 (Effective 07/01/13) from July 1,
2326 2013 to July 1, 2014; and

2327 (3) change the effective date from July 1, 2013 to July 1, 2014 in the following
2328 sections:

2329 (a) Section 32B-8a-101 (Effective 07/01/13);

2330 (b) Section 32B-8a-102 (Effective 07/01/13);

2331 (c) Section 32B-8a-201 (Effective 07/01/13);

2332 (d) Section 32B-8a-202 (Effective 07/01/13);

2333 (e) Section 32B-8a-203 (Effective 07/01/13);

2334 (f) Section 32B-8a-301 (Effective 07/01/13);

2335 (g) Section 32B-8a-302 (Effective 07/01/13);

2336 (h) Section 32B-8a-303 (Effective 07/01/13);

2337 (i) Section 32B-8a-401 (Effective 07/01/13);

2338 (j) Section 32B-8a-402 (Effective 07/01/13);

2339 (k) Section 32B-8a-403 (Effective 07/01/13);

2340 (l) Section 32B-8a-404 (Effective 07/01/13);

2341 (m) Section 32B-8a-501 (Effective 07/01/13); and

2342 (n) Section 32B-8a-502 (Effective 07/01/13).

Legislative Review Note
as of **2-28-13 12:02 PM**

Office of Legislative Research and General Counsel