

### 3rd Sub. H.B. 228

## ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 1

MARCH 12, 2013 3:21 PM

Senator **John L. Valentine** proposes the following amendments:

1. *Page 2, Line 36:*

36           ▶       imposes a fee for applying to the commission for a ~~{change}~~ certain changes in location;

2. *Page 3, Line 72:*

72           {~~32B-9-204, as last amended by Laws of Utah 2012, Chapter 365~~}

3. *Page 56, Lines 1719 through 1724:*

1719           (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding  
1720       Subsection 32B-6-706(4), a full-service restaurant licensee may not allow a patron to remove a  
1721       container containing an alcoholic product from the licensed premises of the full-service  
1722       restaurant unless the full-service restaurant licensee ~~{holds}~~ enters into a package agency  
              contract under which the  
1723       full-service restaurant licensee may sell, offer for sale, or furnish sealed containers of an  
1724       alcoholic product other than beer, and obtains permission from the local authority to sell, offer for sale,  
              or furnish sealed containers of beer for off-premise consumption .

4. *Page 64, Lines 1964 through 1969:*

1964           (14) Except as provided in Subsection 32B-5-307(3)(d) and notwithstanding  
1965       Subsection 32B-6-706(4), a limited-service restaurant licensee may not allow a patron to  
1966       remove a container containing an alcoholic product from the licensed premises of the  
1967       limited-service restaurant unless the limited-service restaurant licensee ~~{holds}~~ enters into a package  
              agency contract  
1968       under which the limited-service restaurant licensee may sell, offer for sale, or furnish sealed  
1969       containers of an alcoholic product other than beer, and obtains permission from the local authority under  
              which the limited-service restaurant licensee may sell, offer for sale, or furnish sealed containers of beer  
              for off-premise consumption .

5. *Page 71, Lines 2170 through 2174:*

2170           (13) Notwithstanding Subsection 32B-6-706(4), a beer-only restaurant licensee may  
2171       not allow a patron to remove a container containing an alcoholic product from the licensed

2172 premises of the beer-only restaurant unless the beer-only restaurant licensee ~~{ holds a package~~  
2173 ~~agency }~~ obtains permission from the local authority under which the beer-only restaurant licensee  
may sell, offer for sale, or furnish sealed  
2174 containers of beer for off premise consumption .

6. Page 72, Line 2212 through Page 76, Line 2349:

2212 ~~{ Section 26. Section 32B-9-204 is amended to read:~~  
2213 ~~32B-9-204. General operational requirements for an event permit.~~  
2214 ~~(1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or~~  
2215 ~~furnishing of an alcoholic product at an event for which an event permit is issued, shall comply~~  
2216 ~~with this title and rules of the commission.~~  
2217 ~~(b) Failure to comply as provided in Subsection (1)(a):~~  
2218 ~~(i) may result in:~~  
2219 ~~(A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and~~  
2220 ~~Enforcement Act, against:~~  
2221 ~~(I) an event permittee;~~  
2222 ~~(H) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic~~  
2223 ~~product at the event; or~~  
2224 ~~(HI) any combination of the persons listed in this Subsection (1)(b);~~  
2225 ~~(B) immediate revocation of the event permit;~~  
2226 ~~(C) forfeiture of a bond; or~~  
2227 ~~(D) immediate seizure of an alcoholic product present at the event; and~~  
2228 ~~(ii) if the event permit is revoked, disqualifies the event permittee from applying for an~~  
2229 ~~event permit for a period of three years from the date of revocation of the event permit.~~  
2230 ~~(c) An alcoholic product seized under this Subsection (1) shall be returned to the event~~  
2231 ~~permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.~~  
2232 ~~(2) (a) If there is a conflict between this part and the relevant part under this chapter for~~  
2233 ~~the specific type of special use permit held by the special use permittee, the relevant part~~  
2234 ~~governs.~~  
2235 ~~(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an~~  
2236 ~~event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the~~  
2237 ~~relevant part under this chapter for the type of event permit that is held by the event permittee.~~  
2238 ~~(c) Notwithstanding that this part or the relevant part under this chapter for the type of~~  
2239 ~~event permit held by an event permittee refers to "event permittee," a person involved in the~~  
2240 ~~storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the~~  
2241 ~~event permit is issued is subject to the same requirement or prohibition.~~  
2242 ~~(3) An event permittee shall display a copy of the event permit in a prominent place in~~  
2243 ~~the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.~~  
2244 ~~(4) An event permittee may not on the premises of the event:~~

2245 ~~—— (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,~~  
2246 ~~Chapter 10, Part 11, Gambling;~~  
2247 ~~—— (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,~~  
2248 ~~Part 11, Gambling; or~~  
2249 ~~—— (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires~~  
2250 ~~the risking of something of value for a return or for an outcome when the return or outcome is~~  
2251 ~~based upon an element of chance, excluding the playing of an amusement device that confers~~  
2252 ~~only an immediate and unrecorded right of replay not exchangeable for value.~~  
2253 ~~—— (5) An event permittee may not knowingly allow a person at an event to, in violation of~~  
2254 ~~Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug~~  
2255 ~~Paraphernalia Act:~~  
2256 ~~—— (a) sell, distribute, possess, or use a controlled substance, as defined in Section~~  
2257 ~~58-37-2; or~~  
2258 ~~—— (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in~~  
2259 ~~Section 58-37a-3.~~  
2260 ~~—— (6) An event permittee may not sell, offer for sale, or furnish beer except beer~~  
2261 ~~purchases from:~~  
2262 ~~—— (a) a beer wholesaler licensee;~~  
2263 ~~—— (b) a beer retailer; or~~  
2264 ~~—— (c) a small brewer.~~  
2265 ~~—— (7) An event permittee may not store, sell, offer for sale, furnish, or allow the~~  
2266 ~~consumption of an alcoholic product purchased for an event in a location other than that~~  
2267 ~~described in the application and designated on the event permit unless the event permittee first~~  
2268 ~~applies for and receives approval from the director, with the approval of the Compliance,~~  
2269 ~~Licensing, and Enforcement Subcommittee, for a change of location.~~  
2270 ~~—— (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or~~  
2271 ~~furnish beer for on-premise consumption:~~  
2272 ~~—— (i) in an open original container; and~~  
2273 ~~—— (ii) in a container on draft.~~  
2274 ~~—— (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to~~  
2275 ~~Subsection (8)(a):~~  
2276 ~~—— (i) in a size of container that exceeds two liters; or~~  
2277 ~~—— (ii) to an individual patron in a size of container that exceeds one liter.~~  
2278 ~~—— (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less~~  
2279 ~~than the cost of the alcoholic product to the event permittee.~~  
2280 ~~—— (b) An event permittee may not sell an alcoholic product at a discount price on any date~~  
2281 ~~or at any time.~~  
2282 ~~—— (c) An event permittee may not sell or offer for sale an alcoholic product at a price that~~  
2283 ~~encourages over consumption or intoxication.~~  
2284 ~~—— (d) An event permittee may not sell or offer for sale an alcoholic product at a special or~~

2285 reduced price for only certain hours of the day of an event:  
2286 ——— (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic  
2287 product at the price of a single alcoholic product.  
2288 ——— (f) An event permittee, or a person operating, selling, offering, or furnishing an  
2289 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or  
2290 unlimited number of alcoholic products during a set period for a fixed price, unless:  
2291 ——— (i) the alcoholic product is served to a patron at a seated event;  
2292 ——— (ii) food is available whenever the alcoholic product is sold, offered for sale, or  
2293 furnished; and  
2294 ——— (iii) no person advertises that at the event a person may be sold or furnished an  
2295 indefinite or unlimited number of alcoholic products during a set period for a fixed price.  
2296 ——— (g) An event permittee may not engage in a public promotion involving or offering a  
2297 free alcoholic product to the general public.  
2298 ——— (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:  
2299 ——— (a) a minor;  
2300 ——— (b) a person actually, apparently, or obviously intoxicated;  
2301 ——— (c) a known interdicted person; or  
2302 ——— (d) a known habitual drunkard.  
2303 ——— (11) (a) An alcoholic product is considered under the control of the event permittee  
2304 during an event:  
2305 ——— (b) A patron at an event may not bring an alcoholic product onto the premises of the  
2306 event.  
2307 ——— (12) An event permittee may not permit a patron to carry from the premises an open  
2308 container that:  
2309 ——— (a) is used primarily for drinking purposes; and  
2310 ——— (b) contains an alcoholic product.  
2311 ——— (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at  
2312 an event is considered under the supervision and direction of the event permittee.  
2313 ——— (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at  
2314 an event may not, while on duty:  
2315 ——— (i) consume an alcoholic product; or  
2316 ——— (ii) be intoxicated.  
2317 ——— (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an  
2318 event.  
2319 ——— (15) The location specified in an event permit may not be changed without prior  
2320 written approval of the commission. An event permittee shall pay an application fee of \$300 to  
2321 apply for the written approval of the commission under this Subsection (15).  
2322 ——— (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or  
2323 attempt in any way to dispose of the event permit to another person whether for monetary gain  
2324 or not.

2325 ~~———— (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the~~  
2326 ~~consumption of an alcoholic product during a period that:~~  
2327 ~~———— (i) begins at 1 a.m.; and~~  
2328 ~~———— (ii) ends at 9:59 a.m.~~  
2329 ~~———— (b) This Subsection (17) does not preclude a local authority from being more restrictive~~  
2330 ~~with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic~~  
2331 ~~product at an event.~~  
2332 ~~———— (18) A patron may have no more than one alcoholic product of any kind at a time~~  
2333 ~~before the patron.~~  
2334 ~~———— (19) (a) An event permittee shall display, in a prominent place, a sign in large letters~~  
2335 ~~that consists of text in the following order:~~  
2336 ~~———— (i) a header that reads: "WARNING";~~  
2337 ~~———— (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy~~  
2338 ~~can cause birth defects and permanent brain damage for the child.";~~  
2339 ~~———— (iii) a statement in smaller font that reads: "Call the Utah Department of Health at~~  
2340 ~~[insert most current toll-free number] with questions or for more information.";~~  
2341 ~~———— (iv) a header that reads: "WARNING"; and~~  
2342 ~~———— (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a~~  
2343 ~~serious crime that is prosecuted aggressively in Utah."~~  
2344 ~~———— (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different~~  
2345 ~~font style than the text described in Subsections (19)(a)(iv) and (v).~~  
2346 ~~———— (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the~~  
2347 ~~same font size.~~  
2348 ~~———— (c) The Department of Health shall work with the commission and department to~~  
2349 ~~facilitate consistency in the format of a sign required under this section.— } }~~