

Representative Kraig Powell proposes the following substitute bill:

ALCOHOLIC BEVERAGE SERVICE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses certain restrictions on the dispensing and storage of alcoholic products at restaurants;
- ▶ removes restrictions on the dispensing and storage of alcoholic products at reception centers;
- ▶ removes restrictions related to sitting at a bar structure;
- ▶ repeals credit for grandfathered bar structures; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

- 27 **32B-1-102**, as last amended by Laws of Utah 2013, Chapter 349
- 28 **32B-6-205**, as last amended by Laws of Utah 2013, Chapter 353
- 29 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334
- 30 **32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353
- 31 **32B-6-703**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 32 **32B-6-805**, as last amended by Laws of Utah 2012, Chapter 365
- 33 **32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353
- 34 **32B-8-402**, as last amended by Laws of Utah 2011, Chapter 334

35 REPEALS:

- 36 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334
- 37 **32B-6-205.1**, as enacted by Laws of Utah 2010, Chapter 276
- 38 **32B-6-305.1**, as enacted by Laws of Utah 2010, Chapter 276
- 39 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2



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

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

43 **32B-1-102. Definitions.**

44 As used in this title:

- 45 (1) "Airport lounge" means a business location:
 - 46 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - 47 (b) that is located at an international airport with a United States Customs office on the
- 48 premises of the international airport.
- 49 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
- 50 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- 51 (3) "Alcoholic beverage" means the following:
 - 52 (a) beer; or
 - 53 (b) liquor.
- 54 (4) (a) "Alcoholic product" means a product that:
 - 55 (i) contains at least .5% of alcohol by volume; and
 - 56 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

57 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
58 in an amount equal to or greater than .5% of alcohol by volume.

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

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

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

63 (ii) vinegar;

64 (iii) cider;

65 (iv) essence;

66 (v) tincture;

67 (vi) food preparation; or

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

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

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

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

73 (b) described in Section [62A-15-401](#).

74 (6) "Banquet" means an event:

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

77 (i) hotel;

78 (ii) resort facility;

79 (iii) sports center; or

80 (iv) convention center;

81 (b) for which there is a contract:

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

83 and

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

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

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

88 (i) at which an alcoholic product is:

89 (A) stored; or

90 (B) dispensed; or

91 (ii) from which an alcoholic product is served.

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

94 (i) stored; or

95 (ii) dispensed.

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

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

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

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

101 (c) "Beer" includes a product that:

102 (i) contains alcohol in the percentages described in Subsection (8)(a); and

103 (ii) is referred to as:

104 (A) beer;

105 (B) ale;

106 (C) porter;

107 (D) stout;

108 (E) lager; or

109 (F) a malt or malted beverage.

110 (d) "Beer" does not include a flavored malt beverage.

111 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
112 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

113 (10) "Beer retailer" means a business:

114 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
115 whether for consumption on or off the business premises; and

116 (b) to whom a license is issued:

117 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
118 Beer Retailer Local Authority; or

119 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
120 and Chapter 6, Part 7, On-Premise Beer Retailer License.

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

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

123 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
124 retail licensees or off-premise beer retailers.

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

126 (a) a light device;

127 (b) a painting;

128 (c) a drawing;

129 (d) a poster;

130 (e) a sign;

131 (f) a signboard; or

132 (g) a scoreboard.

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

134 (a) beer;

135 (b) heavy beer; or

136 (c) a flavored malt beverage.

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

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

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

143 (a) under a single contract;

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

145 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
146 motor vehicle, and a driver to travel together to one or more specified destinations.

147 (17) "Church" means a building:

148 (a) set apart for worship;

149 (b) in which religious services are held;

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

181 dining area of a licensed premises where seating is provided to a patron for service of food.

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

184 (i) stored; or

185 (ii) dispensed.

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

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

189 (a) an auditor or inspector; and

190 (b) employed by the department.

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

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

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

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

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

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

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

203 (i) drawing of an alcoholic product:

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

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

206 [[32B-6-805\(15\)\(b\)\(ii\)](#)]; or [32B-6-905\(12\)\(b\)\(ii\)](#); and

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

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

211 (i) a full-service restaurant license;

212 (ii) a limited-service restaurant license; and

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

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

215 (33) "Distillery manufacturing license" means a license issued in accordance with

216 Chapter 11, Part 4, Distillery Manufacturing License.

217 (34) "Distressed merchandise" means an alcoholic product in the possession of the

218 department that is saleable, but for some reason is unappealing to the public.

219 (35) "Educational facility" includes:

220 (a) a nursery school;

221 (b) an infant day care center; and

222 (c) a trade and technical school.

223 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail

224 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an

225 equity club license.

226 (37) "Event permit" means:

227 (a) a single event permit; or

228 (b) a temporary beer event permit.

229 (38) "Exempt license" means a license exempt under Section [32B-1-201](#) from being

230 considered in determining the total number of a retail license that the commission may issue at

231 any time.

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

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

234 (ii) that is treated by processing, filtration, or another method of manufacture that is not

235 generally recognized as a traditional process in the production of a beer as described in 27

236 C.F.R. Sec. 25.55;

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

238 extract; and

239 (iv) (A) for which the producer is required to file a formula for approval with the

240 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

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

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

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

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

250 (b) "Furnish" includes to:

251 (i) serve;

252 (ii) deliver; or

253 (iii) otherwise make available.

254 (43) "Guest" means an individual who meets the requirements of Subsection
255 [32B-6-407\(9\)](#).

256 (44) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

- 274 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
275 Hygienist Practice Act; and
- 276 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 277 (45) (a) "Heavy beer" means a product that:
- 278 (i) contains more than 4% alcohol by volume; and
- 279 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 280 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 281 (46) "Hotel" is as defined by the commission by rule.
- 282 (47) "Identification card" means an identification card issued under Title 53, Chapter
283 3, Part 8, Identification Card Act.
- 284 (48) "Industry representative" means an individual who is compensated by salary,
285 commission, or other means for representing and selling an alcoholic product of a
286 manufacturer, supplier, or importer of liquor.
- 287 (49) "Industry representative sample" means liquor that is placed in the possession of
288 the department for testing, analysis, and sampling by a local industry representative on the
289 premises of the department to educate the local industry representative of the quality and
290 characteristics of the product.
- 291 (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
292 of an alcoholic product is prohibited by:
- 293 (a) law; or
- 294 (b) court order.
- 295 (51) "Intoxicated" means that a person:
- 296 (a) is significantly impaired as to the person's mental or physical functions as a result of
297 the use of:
- 298 (i) an alcoholic product;
- 299 (ii) a controlled substance;
- 300 (iii) a substance having the property of releasing toxic vapors; or
- 301 (iv) a combination of Subsections (51) (a)(i) through (iii); and
- 302 (b) exhibits plain and easily observed outward manifestations of behavior or physical
303 signs produced by the over consumption of an alcoholic product.
- 304 (52) "Investigator" means an individual who is:

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

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

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

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

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

401 (a) a customer;

402 (b) a member;

403 (c) a guest;

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

405 (e) an individual who receives room service;

406 (f) a resident of a resort;

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

408 or

409 (h) an invitee.

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

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

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

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

414 (a) a licensee;

415 (b) a permittee;

416 (c) a manufacturer;

417 (d) a supplier;

418 (e) an importer;

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

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

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

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

423 (g) staff of:

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

425 (ii) a package agent.

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

- 429 (79) "Prescription" means an order issued by a health care practitioner when:
- 430 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 431 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 432 (b) the order is made in the course of that health care practitioner's professional
- 433 practice; and
- 434 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 435 (80) (a) "Private event" means a specific social, business, or recreational event:
- 436 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 437 group; and
- 438 (ii) that is limited in attendance to people who are specifically designated and their
- 439 guests.
- 440 (b) "Private event" does not include an event to which the general public is invited,
- 441 whether for an admission fee or not.
- 442 (81) (a) "Proof of age" means:
- 443 (i) an identification card;
- 444 (ii) an identification that:
- 445 (A) is substantially similar to an identification card;
- 446 (B) is issued in accordance with the laws of a state other than Utah in which the
- 447 identification is issued;
- 448 (C) includes date of birth; and
- 449 (D) has a picture affixed;
- 450 (iii) a valid driver license certificate that:
- 451 (A) includes date of birth;
- 452 (B) has a picture affixed; and
- 453 (C) is issued:
- 454 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 455 (II) in accordance with the laws of the state in which it is issued;
- 456 (iv) a military identification card that:
- 457 (A) includes date of birth; and
- 458 (B) has a picture affixed; or
- 459 (v) a valid passport.

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

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

463 (i) owned or leased by:

464 (A) the state; or

465 (B) a local government entity; and

466 (ii) used for:

467 (A) public education;

468 (B) transacting public business; or

469 (C) regularly conducting government activities.

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

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

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

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

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

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

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

483 (i) inscribed on a tangible medium; or

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

485 (b) "Record" includes:

486 (i) a book;

487 (ii) a book of account;

488 (iii) a paper;

489 (iv) a contract;

490 (v) an agreement;

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

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

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

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

529 (b) on the premises of:

530 (i) a social club licensee; or

531 (ii) a tavern;

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

533 (d) on a contractual or voluntary basis; and

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

535 (i) an employee;

536 (ii) an independent contractor;

537 (iii) an agent of the licensee; or

538 (iv) a different type of classification.

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

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

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

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

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

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

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

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

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

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

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

559 (b) "Staff" includes:

560 (i) an officer;

561 (ii) a director;

562 (iii) an employee;

563 (iv) personnel management;

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

565 (vi) an operator; or

566 (vii) a representative.

567 (106) "State of nudity" means:

568 (a) the appearance of:

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

570 (ii) a human genital;

571 (iii) a human pubic area; or

572 (iv) a human anus; or

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

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

575 (ii) a human genital;

576 (iii) a human pubic area; or

577 (iv) a human anus.

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

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

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

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

- 584 (A) four inches coverage width in the front of the human body; and
- 585 (B) five inches coverage width in the back of the human body; and
- 586 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

615 (a) is unsaleable because the container is:

616 (i) unlabeled;

617 (ii) leaky;

618 (iii) damaged;

619 (iv) difficult to open; or

620 (v) partly filled;

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

622 (ii) has contents that are:

623 (A) cloudy;

624 (B) spoiled; or

625 (C) chemically determined to be impure; or

626 (iii) contains:

627 (A) sediment; or

628 (B) a foreign substance; or

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

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

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

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

637 Section 2. Section **32B-6-205** is amended to read:

638 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

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

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

644 (i) a full-service restaurant licensee;

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

646 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
647 licensee.

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

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

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

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

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

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

663 (i) begins at midnight; and

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

665 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
666 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
667 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
668 11:30 a.m. on any day.

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

671 (a) mix for an alcoholic product; or

672 (b) a service charge.

673 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
674 alcoholic product except after the full-service restaurant licensee confirms that the patron has
675 the intent to order food prepared, sold, and furnished at the licensed premises.

676 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate

677 culinary facilities for food preparation and dining accommodations.

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

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

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

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

685 (a) at:

686 (i) the patron's table;

687 (ii) a counter; or

688 (iii) a seating grandfathered bar structure; and

689 (b) where food is served.

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

693 ~~[(b)]~~ (11) (a) At a ~~[seating grandfathered]~~ bar structure a patron who is 21 years of age
694 or older may:

695 (i) sit;

696 (ii) be furnished an alcoholic product; and

697 (iii) consume an alcoholic product.

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

700 (i) sit; or

701 (ii) consume food or beverages.

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

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

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

707 (ii) A minor may momentarily pass by a ~~[seating grandfathered]~~ bar structure without

708 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
709 premises in which the minor is permitted to be.

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

712 (a) the alcoholic product is dispensed from:

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

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

717 (iii) an area that is:

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

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

722 (II) not accessible by a patron; and

723 (B) apart from an area used:

724 (I) for dining;

725 (II) for staging; or

726 (III) as a lobby or waiting area;

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

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

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

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

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

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

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

737 (d) (i) Notwithstanding the other provisions of Subsection (3) and this Subsection (12),
738 a full-service restaurant licensee is not subject to the requirements of Subsection (3) and this

739 Subsection (12) if the full-service restaurant licensee:

740 (A) posts a conspicuous sign at all entrances of the licensed premises stating that
 741 "Notice: This establishment dispenses and serves alcoholic products in public view."; and

742 (B) conspicuously states on the menu of full-service restaurant licensee that "Notice:
 743 This establishment dispenses and serves alcoholic products in public view."

744 (ii) The commission by rule, made in accordance with Title 63A, Chapter 3, Utah
 745 Administrative Rulemaking Act, may establish the format requirements of the notices required
 746 under this Subsection (12)(d).

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

- 749 (a) a set-up charge;
- 750 (b) a service charge; or
- 751 (c) a chilling fee.

752 Section 3. Section **32B-6-302** is amended to read:

753 **32B-6-302. Definitions.**

754 [As used in this part:]

755 [(1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
 756 ~~limited-service restaurant licensee that:]~~

757 [(i) ~~as of May 11, 2009, has:]~~

758 [(A) ~~patron seating at the bar structure;]~~

759 [(B) ~~a partition at one or more locations on the bar structure that is along:]~~

760 [(F) ~~the width of the bar structure; or]~~

761 [(H) ~~the length of the bar structure; and]~~

762 [(C) ~~facilities for the dispensing or storage of an alcoholic product:]~~

763 [(F) ~~on the portion of the bar structure that is separated by the partition described in~~
 764 ~~Subsection (1)(a)(i)(B); or]~~

765 [(H) ~~if the partition as described in Subsection (1)(a)(i)(B)(H) is adjacent to the bar~~
 766 ~~structure in a manner visible to a patron sitting at the bar structure;]~~

767 [(ii) ~~is not operational as of May 12, 2009, if:]~~

768 [(A) ~~a person applying for a limited-service restaurant license:]~~

769 [(F) ~~has as of May 12, 2009, a building permit to construct the restaurant;]~~

770 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
771 ~~defined by rule made by the commission; and]~~

772 ~~[(HH) is issued the limited-service restaurant license by no later than December 31,~~
773 ~~2009; and]~~

774 ~~[(B) once constructed, the licensed premises has a bar structure described in Subsection~~
775 ~~(1)(a)(i);]~~

776 ~~[(iii) as of May 12, 2009, has no patron seating at the bar structure; or]~~

777 ~~[(iv) is not operational as of May 12, 2009, if:]~~

778 ~~[(A) a person applying for a limited-service restaurant license:]~~

779 ~~[(I) has as of May 12, 2009, a building permit to construct the restaurant];~~

780 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
781 ~~defined by rule made by the commission; and]~~

782 ~~[(HH) is issued a limited-service restaurant license by no later than December 31, 2009;~~
783 ~~and]~~

784 ~~[(B) once constructed, the licensed premises has a bar structure with no patron seating:]~~

785 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~
786 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~
787 ~~grandfathered bar structure, as defined by rule made by the commission.]~~

788 ~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~
789 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~

790 ~~[(2) "Seating grandfathered bar structure" means:]~~

791 ~~[(a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or]~~

792 ~~[(b) a bar structure grandfathered under Section ~~32B-6-409~~.]~~

793 ~~[(3) "Wine"]~~ As used in this part, "wine" includes an alcoholic beverage defined as
794 wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic
795 beverages made in the manner of wine containing not less than 7% and not more than 24% of
796 alcohol by volume:

797 ~~[(a)]~~ (1) sparkling and carbonated wine;

798 ~~[(b)]~~ (2) wine made from condensed grape must;

799 ~~[(c)]~~ (3) wine made from other agricultural products than the juice of sound, ripe
800 grapes;

- 801 [~~(d)~~] (4) imitation wine;
- 802 [~~(e)~~] (5) compounds sold as wine;
- 803 [~~(f)~~] (6) vermouth;
- 804 [~~(g)~~] (7) cider;
- 805 [~~(h)~~] (8) perry; and
- 806 [~~(i)~~] (9) sake.

807 Section 4. Section **32B-6-305** is amended to read:

808 **32B-6-305. Specific operational requirements for a limited-service restaurant**
809 **license.**

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

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

- 815 (i) a limited-service restaurant licensee;
- 816 (ii) individual staff of a limited-service restaurant licensee; or
- 817 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
818 licensee.

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

- 821 (i) spirituous liquor; or
- 822 (ii) a flavored malt beverage.

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

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

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

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

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

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

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

838 (i) begins at midnight; and

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

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

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

846 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
847 alcoholic product except after the limited-service restaurant licensee confirms that the patron
848 has the intent to order food prepared, sold, and furnished at the licensed premises.

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

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

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

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

856 (a) at:

857 (i) the patron's table;

858 (ii) a counter; or

859 (iii) a [~~seating grandfathered~~] bar structure; and

860 (b) where food is served.

861 [~~(11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an~~
862 ~~alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar~~

863 structure that is not a seating grandfathered bar structure.]

864 ~~(b)~~ (11) (a) At a ~~seating grandfathered~~ bar structure a patron who is 21 years of age
865 or older may:

- 866 (i) sit;
- 867 (ii) be furnished an alcoholic product; and
- 868 (iii) consume an alcoholic product.

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

- 871 (i) sit; or
- 872 (ii) consume food or beverages.

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

- 875 (A) as provided in Subsection 32B-5-308(2); or
- 876 (B) to perform maintenance and cleaning services during an hour when the
877 limited-service restaurant licensee is not open for business.

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

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

- 883 (a) the alcoholic product is dispensed from:
 - 884 (i) a ~~grandfathered~~ bar structure;
 - 885 (ii) an area adjacent to a ~~grandfathered~~ bar structure that is visible to a patron sitting
886 at the ~~grandfathered~~ bar structure if that area is used to dispense an alcoholic product as of
887 May 12, 2009; or

888 (iii) an area that is:

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

- 892 (I) not readily visible to a patron; and
- 893 (II) not accessible by a patron; and

894 (B) apart from an area used:
895 (I) for dining;
896 (II) for staging; or
897 (III) as a lobby or waiting area;
898 (b) the limited-service restaurant licensee uses an alcoholic product that is:
899 (i) stored in an area described in Subsection (12)(a); or
900 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
901 (A) immediately before the alcoholic product is dispensed it is in an unopened
902 container;
903 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
904 is opened; and
905 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
906 (c) any instrument or equipment used to dispense alcoholic product is located in an
907 area described in Subsection (12)(a).
908 (d) (i) Notwithstanding the other provisions of Subsection (3) and this Subsection (12),
909 a limited-service restaurant licensee is not subject to the requirements of Subsection (3) and
910 this Subsection (12) if the limited-service restaurant licensee:
911 (A) posts a conspicuous sign at all entrances of the licensed premises stating that
912 "Notice: This establishment dispenses and serves alcoholic products in public view."; and
913 (B) conspicuously states on the menu of limited-service restaurant licensee that
914 "Notice: This establishment dispenses and serves alcoholic products in public view."
915 (ii) The commission by rule, made in accordance with Title 63A, Chapter 3, Utah
916 Administrative Rulemaking Act, may establish the format requirements of the notices required
917 under this Subsection (12)(d).
918 (13) A limited-service restaurant licensee may state in a food or alcoholic product
919 menu a charge or fee made in connection with the sale, service, or consumption of wine or
920 heavy beer including:
921 (a) a set-up charge;
922 (b) a service charge; or
923 (c) a chilling fee.
924 Section 5. Section **32B-6-703** is amended to read:

925 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

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

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

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

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

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

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

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

943 (I) a beer bar;

944 (II) a parlor;

945 (III) a lounge;

946 (IV) a cabaret; or

947 (V) a nightclub;

948 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

949 (I) whether the on-premise beer retailer will sell food in the establishment; and

950 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
951 will exceed the revenue of the sale of food;

952 (C) whether full meals including appetizers, main courses, and desserts will be served;

953 (D) the square footage and seating capacity of the premises;

954 (E) what portion of the square footage and seating capacity will be used for a dining
955 area in comparison to the portion that will be used as a lounge or bar area;

956 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
957 full meals, except a person that is located on the premises of a hotel or resort facility may use
958 the culinary facilities of the hotel or resort facility;

959 (G) whether the entertainment provided on the premises of the beer retailer will be
960 suitable for minors; and

961 (H) the beer retailer management's ability to manage and operate an on-premise beer
962 retailer license including:

963 (I) management experience;

964 (II) past beer retailer management experience; and

965 (III) the type of management scheme that will be used by the beer retailer.

966 (e) On or after March 1, 2012:

967 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

968 (A) maintain at least 70% of the person's total gross revenues from business directly
969 related to a recreational amenity on or directly adjoining the licensed premises of the beer
970 retailer; or

971 (B) have a recreational amenity on or directly adjoining the licensed premises of the
972 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
973 food.

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

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

977 (B) operate as a tavern.

978 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
979 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
980 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
981 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

982 (B) If an on-premise beer retailer fails to notify the department as required by
983 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
984 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
985 retailer is required to apply as a new licensee~~[-, and any bar or bar structure on the premises of~~
986 ~~an on-premise beer retailer license that is not a tavern and does not meet the requirements of~~

987 Subsection (2)(e)(i) will not be grandfathered under Subsection [32B-6-902\(1\)](#)].

988 (iv) A person who, after August 1, 2011, applies for an on-premise beer retailer license
989 that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or
990 construct facilities for the dispensing or storage of an alcoholic product that do not meet the
991 requirements of Subsection [32B-6-905\(12\)\(a\)\(ii\)](#) except as provided in Subsection
992 [32B-6-905\(12\)\(d\)](#).

993 (3) Subject to Section [32B-1-201](#):

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

997 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
998 in accordance with Section [32B-5-206](#).

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

1000 (i) only one on-premise beer retailer license is required for each building or resort
1001 facility owned or leased by the same person; and

1002 (ii) a separate license is not required for each retail beer dispensing location in the
1003 same building or on the same resort premises owned or operated by the same person.

1004 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
1005 building or resort facility operates in the same manner.

1006 (ii) If each retail beer dispensing location does not operate in the same manner:

1007 (A) one on-premise beer retailer license designated as a tavern is required for the
1008 locations in the same building or on the same resort premises that operate as a tavern; and

1009 (B) one on-premise beer retailer license is required for the locations in the same
1010 building or on the same resort premises that do not operate as a tavern.

1011 Section 6. Section [32B-6-805](#) is amended to read:

1012 **32B-6-805. Specific operational requirements for a reception center license.**

1013 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1014 Requirements, a reception center licensee and staff of the reception center licensee shall
1015 comply with this section.

1016 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1017 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1018 (i) a reception center licensee;
- 1019 (ii) individual staff of a reception center licensee; or
- 1020 (iii) both a reception center licensee and staff of the reception center licensee.
- 1021 ~~[(2) In addition to complying with Section 32B-5-303, a reception center licensee shall~~
- 1022 ~~store an alcoholic product in a storage area described in Subsection (15)(a).]~~
- 1023 ~~[(3)]~~ (2) (a) For the purpose described in Subsection ~~[(3)]~~ (2)(b), a reception center
- 1024 licensee shall provide the following with advance notice of a scheduled event in accordance
- 1025 with rules made by the commission:
- 1026 (i) the department; and
- 1027 (ii) the local law enforcement agency responsible for the enforcement of this title in the
- 1028 jurisdiction where the reception center is located.
- 1029 (b) Any of the following may conduct a random inspection of an event:
- 1030 (i) an authorized representative of the commission or the department; or
- 1031 (ii) a law enforcement officer.
- 1032 ~~[(4)]~~ (3) (a) Except as otherwise provided in this title, a reception center licensee may
- 1033 sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the
- 1034 reception center's licensed premises.
- 1035 (b) A host of an event, a patron, or a person other than the reception center licensee or
- 1036 staff of the reception center licensee, may not remove an alcoholic product from the reception
- 1037 center's licensed premises.
- 1038 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an
- 1039 alcoholic product into or onto, or remove an alcoholic product from, the reception center.
- 1040 ~~[(5)]~~ (4) (a) A reception center licensee may not leave an unsold alcoholic product at an
- 1041 event following the conclusion of the event.
- 1042 (b) At the conclusion of an event, a reception center licensee shall:
- 1043 (i) destroy an opened and unused alcoholic product that is not saleable, under
- 1044 conditions established by the department; and
- 1045 (ii) return to the reception center licensee's approved locked storage area any:
- 1046 (A) opened and unused alcoholic product that is saleable; and
- 1047 (B) unopened container of an alcoholic product.
- 1048 (c) Except as provided in Subsection ~~[(5)]~~ (4)(b) with regard to an open or sealed

1049 container of an alcoholic product not sold or consumed at an event, a reception center
1050 licensee [~~(i) shall store the alcoholic product in accordance with Subsection (2); and (ii)~~] may
1051 use the alcoholic product at more than one event.

1052 [~~(6)~~] (5) Notwithstanding Section 32B-5-308, a reception center licensee may not
1053 employ a minor in connection with an event at the reception center at which food is not made
1054 available.

1055 [~~(7)~~] (6) A person's willingness to serve an alcoholic product may not be made a
1056 condition of employment as a server with a reception center licensee.

1057 [~~(8)~~] (7) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
1058 product at the licensed premises on any day during the period that:

1059 (a) begins at 1 a.m.; and

1060 (b) ends at 9:59 a.m.

1061 [~~(9)~~] (8) (a) A reception center licensee may not maintain in excess of 30% of its total
1062 annual receipts from the sale of an alcoholic product, which includes:

1063 (i) mix for an alcoholic product; or

1064 (ii) a charge in connection with the furnishing of an alcoholic product.

1065 (b) A reception center licensee shall report the information necessary to show
1066 compliance with this Subsection [~~(9)~~] (8) to the department on an annual basis.

1067 [~~(10)~~] (9) A reception center licensee may not sell, offer for sale, or furnish an
1068 alcoholic product at an event at which a minor is present unless the reception center licensee
1069 makes food available at all times when an alcoholic product is sold, offered for sale, furnished,
1070 or consumed during the event.

1071 [~~(11)~~] (10) (a) Subject to the other provisions of this Subsection [~~(11)~~] (10), a patron
1072 may not have more than two alcoholic products of any kind at a time before the patron.

1073 (b) An individual portion of wine is considered to be one alcoholic product under
1074 Subsection [~~(11)~~] (10)(a).

1075 [~~(12)~~] (11) (a) A reception center licensee shall supervise and direct a person involved
1076 in the sale, offer for sale, or furnishing of an alcoholic product.

1077 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
1078 shall complete an alcohol training and education seminar.

1079 [~~(13)~~] (12) A staff person of a reception center licensee shall remain at an event at all

1080 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

1081 ~~[(14)]~~ (13) A reception center licensee may not sell, offer for sale, or furnish an
1082 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1083 structure.

1084 ~~[(15) Except as provided in Subsection (16), a reception center licensee may dispense~~
1085 ~~an alcoholic product only if:]~~

1086 ~~[(a) the alcoholic product is dispensed from an area that is:]~~

1087 ~~[(i) separated from an area for the consumption of food by a patron by a solid,~~
1088 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
1089 ~~an alcoholic product are:]~~

1090 ~~[(A) not readily visible to a patron; and]~~

1091 ~~[(B) not accessible by a patron; and]~~

1092 ~~[(ii) apart from an area used:]~~

1093 ~~[(A) for staging; or]~~

1094 ~~[(B) as a lobby or waiting area;]~~

1095 ~~[(b) the reception center licensee uses an alcoholic product that is:]~~

1096 ~~[(i) stored in an area described in Subsection (15)(a); or]~~

1097 ~~[(ii) in an area not described in Subsection (15)(a) on the licensed premises and:]~~

1098 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
1099 ~~container;]~~

1100 ~~[(B) the unopened container is taken to an area described in Subsection (15)(a) before~~
1101 ~~it is opened; and]~~

1102 ~~[(C) once opened, the container is stored in an area described in Subsection (15)(a);~~
1103 ~~and]~~

1104 ~~[(c) any instrument or equipment used to dispense an alcoholic product is located in an~~
1105 ~~area described in Subsection (15)(a).]~~

1106 ~~[(16)]~~ (14) A reception center licensee may dispense an alcoholic product from a
1107 mobile serving area that:

1108 (a) is moved only by staff of the reception center licensee;

1109 (b) is capable of being moved by only one individual; and

1110 (c) is no larger than 6 feet long and 30 inches wide.

1111 ~~[(17)]~~ (15) (a) A reception center licensee may not have an event on the licensed
 1112 premises except pursuant to a contract between a third party host of the event and the reception
 1113 center licensee under which the reception center licensee provides an alcoholic product sold,
 1114 offered for sale, or furnished at an event.

1115 (b) At an event, a reception center licensee may furnish an alcoholic product:

1116 (i) without charge to a patron, except that the third party host of the event shall pay for
 1117 an alcoholic product furnished at the event; or

1118 (ii) with a charge to a patron at the event.

1119 (c) The commission may by rule define what constitutes a "third-party host" for
 1120 purposes of this Subsection ~~[(17)]~~ (15) so that a reception center licensee and the third-party
 1121 host are not owned by or operated by the same persons, except that the rule shall permit a
 1122 reception center licensee to host an event for an immediate family member of the reception
 1123 center licensee.

1124 ~~[(18)]~~ (16) A reception center licensee shall have culinary facilities that are:

1125 (a) adequate to prepare a full meal; and

1126 (b) (i) located on the licensed premises; or

1127 (ii) under the same control as the reception center licensee.

1128 ~~[(19)]~~ (17) (a) Except as provided in Subsection ~~[(19)]~~ (17)(b), a reception center
 1129 licensee may not operate an event:

1130 (i) that is open to the general public; and

1131 (ii) at which an alcoholic product is sold or offered for sale.

1132 (b) A reception center licensee may operate an event described in Subsection ~~[(19)]~~
 1133 (17)(a) if the event is hosted:

1134 (i) at the reception center no more frequently than once a calendar year; and

1135 (ii) by a nonprofit organization that is organized and qualified under Section 501(c),
 1136 Internal Revenue Code.

1137 Section 7. Section **32B-6-905** is amended to read:

1138 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

1139 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
 1140 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
 1141 shall comply with this section.

1142 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1143 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1144 (i) a beer-only restaurant licensee;
- 1145 (ii) individual staff of a beer-only restaurant licensee; or
- 1146 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

1147 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
1148 sale, furnish, or allow consumption of liquor.

1149 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- 1150 (i) as a flavoring on a dessert; and
- 1151 (ii) in the preparation of a flaming food dish, drink, or dessert.

1152 (3) In addition to complying with Section [32B-5-303](#), a beer-only restaurant licensee
1153 shall store beer in a storage area described in Subsection (12)(a).

1154 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises
1155 shall make a written beverage tab for each table or group that orders or consumes an alcoholic
1156 product on the premises.

1157 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
1158 beer ordered or consumed.

1159 (5) A person's willingness to serve beer may not be made a condition of employment
1160 as a server with a beer-only restaurant licensee.

1161 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
1162 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
1163 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1164 11:30 a.m. on any day.

1165 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
1166 business from the sale of food, which does not include a service charge.

1167 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after
1168 the beer-only restaurant licensee confirms that the patron has the intent to order food prepared,
1169 sold, and furnished at the licensed premises.

1170 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1171 facilities for food preparation and dining accommodations.

1172 (9) A patron may not have more than two beers at a time before the patron.

1173 (10) A patron may consume a beer only:

1174 (a) at:

1175 (i) the patron's table;

1176 (ii) a [grandfathered] bar structure; or

1177 (iii) a counter; and

1178 (b) where food is served.

1179 [~~(11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to~~
1180 ~~a patron, and a patron may not consume an alcoholic product at a bar structure.~~]

1181 [~~(b)~~] (11) (a) A [Notwithstanding Subsection (11)(a), at a grandfathered] bar structure,
1182 a patron who is 21 years of age or older may:

1183 (i) sit;

1184 (ii) be furnished a beer; and

1185 (iii) consume a beer.

1186 [~~(c)~~] (b) Except as provided in Subsection (11)[~~(d)~~](c), at a [grandfathered] bar
1187 structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

1188 (i) sit; or

1189 (ii) consume food or beverages.

1190 [~~(d)~~] (c) (i) A minor may be at a [grandfathered] bar structure if the minor is employed
1191 by a beer-only restaurant licensee:

1192 (A) as provided in Subsection 32B-5-308(2); or

1193 (B) to perform maintenance and cleaning services during an hour when the beer-only
1194 restaurant licensee is not open for business.

1195 (ii) A minor may momentarily pass by a [grandfathered] bar structure without
1196 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
1197 premises in which the minor is permitted to be.

1198 (12) A beer-only restaurant licensee may dispense a beer only if:

1199 (a) the beer is dispensed from an area that is:

1200 (i) a [grandfathered] bar structure; or

1201 (ii) separated from an area for the consumption of food by a patron by a solid,
1202 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1203 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart

1204 from an area used for dining, for staging, or as a lobby or waiting area;

1205 (b) the beer-only restaurant licensee uses a beer that is:

1206 (i) stored in an area described in Subsection (12)(a); or

1207 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

1208 (A) immediately before the beer is dispensed it is in an unopened container;

1209 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
1210 is opened; and

1211 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

1212 (c) any instrument or equipment used to dispense the beer is located in an area
1213 described in Subsection (12)(a).

1214 (d) (i) Notwithstanding the other provisions of Subsection (3) and this Subsection (12),
1215 a beer-only restaurant licensee is not subject to the requirements of Subsection (3) and this
1216 Subsection (12) if the beer-only restaurant licensee:

1217 (A) posts a conspicuous sign at all entrances of the licensed premises stating that
1218 "Notice: This establishment dispenses and serves alcoholic products in public view."; and

1219 (B) conspicuously states on the menu of beer-only restaurant licensee that "Notice:
1220 This establishment dispenses and serves alcoholic products in public view."

1221 (ii) The commission by rule, made in accordance with Title 63A, Chapter 3, Utah
1222 Administrative Rulemaking Act, may establish the format requirements of the notices required
1223 under this Subsection (12)(d).

1224 Section 8. Section **32B-8-402** is amended to read:

1225 **32B-8-402. Specific operational requirements for a sublicense.**

1226 (1) A person operating under a sublicense is subject to the operational requirements
1227 under the provisions applicable to the sublicense except that~~[-(a)]~~ notwithstanding a
1228 requirement in the provisions applicable to the sublicense, a person operating under the
1229 sublicense is not subject to a requirement that a certain percentage of the gross receipts for the
1230 sublicense be from the sale of food, except to the extent that the gross receipts for the
1231 sublicense are included in calculating the percentages under Subsection **32B-8-401(4)**~~[-and]~~.

1232 ~~[(b) notwithstanding Section **32B-6-202** or **32B-6-302**, a bar structure in a licensed~~
1233 ~~premises operated under a full-service restaurant sublicense or limited-service restaurant~~
1234 ~~sublicense is considered a grandfathered bar structure if the resort license that includes the~~

1235 ~~full-service restaurant sublicense or limited-service restaurant sublicense is issued by no later~~
1236 ~~than December 31, 2010.]~~

1237 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational
1238 requirement imposed by the provisions applicable to a sublicense:

1239 (a) a requirement imposed on a person operating under a sublicense applies to the
1240 resort licensee; and

1241 (b) a requirement imposed on staff of a person operating under a sublicense applies to
1242 staff of the resort licensee.

1243 Section 9. **Repealer.**

1244 This bill repeals:

1245 Section 32B-6-202, **Definitions.**

1246 Section 32B-6-205.1, **Credit for grandfathered bar structures of full-service**
1247 **restaurant licensee.**

1248 Section 32B-6-305.1, **Credit for grandfathered bar structures for limited-service**
1249 **restaurant licensee.**

1250 Section 32B-6-902, **Definitions.**