

Representative Gage Froerer proposes the following substitute bill:

ALCOHOL MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to consumption of alcoholic products.

Highlighted Provisions:

This bill:

▶ defines terms;

▶ clarifies ~~§~~→ [citations] provisions related to unlawful sale or furnishing of alcoholic products ←~~§~~ ;

▶ authorizes tastings by manufacturing licensees under certain conditions;

▶ addresses when a manufacturing licensee may allow staff to consume alcoholic products; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-4-401, as enacted by Laws of Utah 2010, Chapter 276

32B-11-303, as enacted by Laws of Utah 2010, Chapter 276

2nd Sub. H.B. 228



88 (ii) a military installation; or
89 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

90 (b) Subsection (5)(a) does not preclude:

91 (i) a small brewer who is a brewery manufacturing licensee located in this state from
92 selling, shipping, and transporting beer to the extent authorized by Subsection 32B-11-503(5)
93 directly to one of the following in this state:

94 (A) a beer retailer; or

95 (B) an event permittee; or

96 (ii) a brewery manufacturing licensee from selling beer to a person on its
97 manufacturing premises under Subsection 32B-11-503(4)(c).

98 (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to
99 sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an
100 out-of-state location directly or indirectly into this state, except as otherwise provided by this
101 title.

102 (7) It is unlawful for a person in this state other than a person described in Subsection
103 (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic
104 product directly or indirectly to another person in this state, except as otherwise provided by
105 this title.

106 (8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise
107 provided by this title.

108 (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

109 (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

110 Section 2. Section 32B-11-210 is enacted to read:

111 **32B-11-210. Tasting provided by manufacturing licensee.**

112 (1) As used in this section ~~§~~ → [,"taste"] :

112a **(a) "Parcel" means the same identifiable contiguous unit of property that is treated as**
112b **separate for valuation or zoning purposes and includes an improvement on that unit of**
112c **property.**

112d **(b) "Taste" ←§ means an amount of an alcoholic product provided**
113 **by a manufacturing licensee for consumption under this section.**

114 (2) A manufacturing licensee may provide for a tasting in accordance with this section.

115 (3) Before conducting a tasting, the manufacturing licensee shall provide the
116 department:

117 (a) evidence of proximity to any community location, with proximity requirements
118 being governed by Section 32B-1-202 as if the manufacturing licensee were a retail licensee;

119 (b) a floor plan, and boundary map where applicable, of the premises of the
 120 manufacturing licensee, including any:

121 (i) consumption area; and

122 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
 123 product to be tasted;

124 (c) evidence that the manufacturing licensee is carrying public liability insurance in an
 125 amount and form satisfactory to the department;

126 (d) evidence that the manufacturing licensee is carrying dramshop insurance coverage
 127 in an amount and form satisfactory to the department; and

128 (e) any other information the commission or department may require.

129 (4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day
 130 during the period that:

131 (a) begins at midnight; and

132 (b) ends at 10:59 a.m.

133 (5) A person who serves a taste on behalf of the manufacturing licensee shall complete
 134 an alcohol training and education seminar as if the person were employed by a retail licensee.

135 (6) ~~§~~ **→ (a) ←** A manufacturing licensee shall establish a distinct area for consumption of a
 135a taste

136 **→ outside the view of minors → on the licensed premises ← and ←** in which minors are
 136a1 not allowed during the time period
 136a when tasting occurs.

136b **→ (b) The distinct area for consumption for a taste established under this Subsection (6)**
 136c **shall be in the same building as where the manufacturing licensee produces alcoholic product**
 136d **→ [or] , ← in a building on the same parcel as the building where the manufacturing**
 136d1 **licensee produces**

136e **alcoholic product → , or in a patio or similar area immediately adjacent to a building**
 136e1 **described in this Subsection (6)(b) ← . ←**

137 (7) ~~§~~ **→ (a) ←** A manufacturing licensee shall have **→ [a variety of] substantial ←**
 137a food available that is served on the
 138 licensed premises to an individual consuming a taste.

138a **→ (b) The commission may define what constitutes "substantial food" by rule made in**
 138b **accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the**
 138c **rule may not require culinary facilities for food preparation that are equivalent to a restaurant**
 138d **or dining club. ←**

139 (8) A manufacturing licensee shall charge an individual for a taste and may not sell,
 140 offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.

141 (9) (a) A manufacturing licensee may provide a taste in more than one container except

150 (a) manufactured by the manufacturing licensee; and
 151 (b) purchased by the manufacturing licensee from:
 152 (i) a state store or package agency; or
 153 (ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).
 154 (11) (a) A manufacturing licensee shall display in a prominent place in the location
 155 where tastes are consumed a sign in large letters that consists of text in the following order:
 156 (i) a header that reads: "WARNING";
 157 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
 158 can cause birth defects and permanent brain damage for the child.";
 159 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
 160 [insert most current toll-free number] with questions or for more information.";
 161 (iv) a header that reads: "WARNING"; and
 162 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
 163 serious crime that is prosecuted aggressively in Utah."
 164 (b) (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different
 165 font style than the text described in Subsections (11)(a)(iv) and (v).
 166 (ii) The warning statements in the sign described in Subsection (11)(a) shall be in the
 167 same font size.
 168 (c) The Department of Health shall work with the commission and department to
 169 facilitate consistency in the format of a sign required under this Subsection (11).
 170 (12) A manufacturing licensee shall provide educational information as defined by rule
 171 by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 172 Act, as part of the tasting.
 172a **§→ (13) A manufacturing licensee that conducts tastings under a scientific or educational use**
 172b **permit issued by the commission as of May 10, 2016, shall comply with this section by no later**
 172c **than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-**
 172d **206(1)(c), effective no later than January 1, 2017, the commission shall take action on a**
 172e **scientific or educational use permit used by a manufacturing licensee to conduct tastings. ←§**
 173 Section 3. Section 32B-11-303 is amended to read:
 174 **32B-11-303. Specific authority and operational requirements for winery**
 175 **manufacturing license.**
 176 (1) A winery manufacturing license allows a winery manufacturing licensee to:
 177 (a) store, manufacture, transport, import, or export wine;
 178 (b) sell wine at wholesale to the department and to out-of-state customers;
 179 (c) purchase liquor for fortifying wine, if the department is notified of the purchase and
 180 date of delivery; and