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1 ALCOHOLIC BEVERAGE POLICY AMENDMENTS**2 2016 GENERAL SESSION****3 STATE OF UTAH****4 Chief Sponsor: Jerry W. Stevenson****5 House Sponsor: Brad R. Wilson****7 LONG TITLE****8 General Description:**

9 This bill modifies provisions related to alcoholic policies.

10 Highlighted Provisions:

11 This bill:

- 12 ▶ amends the provision related to bringing alcoholic products onto or removing
- 13 alcoholic products from premises;
- 14 ▶ modifies licensing requirements of an on-premise beer retailer that is not a tavern;
- 15 ▶ modifies certain quotas;
- 16 ▶ addresses licensing fees;

17 S → [→ amends operational provisions for retail licensees and for an off-premise beer
18 retailer;] ← S

- 19 ▶ amends the operational requirements for transferees;
- 20 ▶ repeals the requirement that a person file a notice of intended transfer and makes
- 21 conforming amendments;
- 22 ▶ amends notice requirements related to notice of a transfer of a license;
- 23 ▶ amends the application process for transfers; and
- 24 ▶ makes technical changes.

25 Money Appropriated in this Bill:

26 None

27 Other Special Clauses:**S.B. 250**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **32B-5-307**, as last amended by Laws of Utah 2011, Chapters 307 and 334

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

33 **32B-6-303**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1

34 **32B-6-304**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1

35 **32B-6-603**, as last amended by Laws of Utah 2011, Chapter 334

36 **32B-6-703**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

37 **32B-6-803**, as enacted by Laws of Utah 2011, Chapter 334

38 ~~§→ [—**32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307] ←§~~

39 **32B-8a-202**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by
40 Revisor Instructions, Laws of Utah 2013, Chapter 349

41 **32B-8a-203**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by
42 Revisor Instructions, Laws of Utah 2013, Chapter 349

43 **32B-8a-302**, as and further amended by Revisor Instructions, Laws of Utah 2013,
44 Chapter 349

45 **32B-8a-401**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by
46 Revisor Instructions, Laws of Utah 2013, Chapter 349

47 REPEALS:

48 **32B-8a-301**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by
49 Revisor Instructions, Laws of Utah 2013, Chapter 349

50 **32B-8a-403**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by
51 Revisor Instructions, Laws of Utah 2013, Chapter 349

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

54 Section 1. Section **32B-5-307** is amended to read:

55 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from
56 premises.**

57 (1) Except as provided in Subsection (3):

58 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic

59 product for on-premise consumption.

60 (b) A retail licensee may not allow a person to:

61 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

62 (ii) consume an alcoholic product brought onto the licensed premises by a person other
63 than the retail licensee.

64 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through
65 a window or door to a location off the licensed premises or to a vehicular traffic area.

66 (2) Except as provided in Subsection (3):

67 (a) A person may not carry from a licensed premises of a retail licensee an open
68 container that:

69 (i) is used primarily for drinking purposes; and

70 (ii) contains an alcoholic product.

71 (b) A retail licensee may not permit a patron to carry from the licensed premises an
72 open container described in Subsection (2)(a).

73 (c) Except as provided in Subsection (3)(d) S→ or Subsection 32B-4-415(5) ←S :

74 (i) a person may not carry from a licensed premises of a retail licensee a sealed

75 container of liquor S→ that has been purchased from the retail licensee ←S ; and

76 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
77 sealed container of liquor S→ that has been purchased from the retail licensee ←S .

78 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
79 on-premise consumption if:

80 (i) permitted by the retail licensee; and

81 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

82 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
83 patron shall deliver the bottled wine to a server or other representative of the retail licensee
84 upon entering the licensed premises.

85 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
86 wine service for a bottled wine carried onto the licensed premises in accordance with this
87 Subsection (3).

88 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
89 of wine purchased in the licensed premises, or brought onto the licensed premises in

90 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

91 Section 2. Section **32B-6-203** is amended to read:

92 **32B-6-203. Commission's power to issue full-service restaurant license.**

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

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

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

101 (a) The commission may not issue a total number of full-service restaurant licenses that
102 at any time exceeds the number determined by dividing the population of the state by [4,534]
103 4,467.

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

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

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

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

113 (I) within the same hotel; and

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

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

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

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

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

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

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

133 Section 3. Section 32B-6-303 is amended to read:

134 **32B-6-303. Commission's power to issue limited-service restaurant license.**

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

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

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

144 (i) spirituous liquor; or

145 (ii) a flavored malt beverage.

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

147 (a) The commission may not issue a total number of limited-service restaurant licenses
148 that at any time exceeds the number determined by dividing the population of the state by
149 [7,493] 6,817.

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

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

157 (A) the hotel has a minimum of 150 guest rooms; and
158 (B) the locations under the limited-service restaurant license are:
159 (I) within the same hotel; and
160 (II) on premises that are managed or operated, and owned or leased, by the
161 limited-service restaurant licensee.

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

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

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

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

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

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

180 Section 4. Section 32B-6-304 is amended to read:

181 **32B-6-304. Specific licensing requirements for limited-service restaurant license.**

182 (1) To obtain a limited-service restaurant license a person shall comply with Chapter 5,

183 Part 2, Retail Licensing Process.

184 (2) (a) A limited-service restaurant license expires on October 31 of each year.

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

188 (3) (a) The nonrefundable application fee for a limited-service restaurant license is
189 \$330.

190 (b) The initial license fee for a limited-service restaurant license is ~~\$825~~ \$1,275.

191 (c) The renewal fee for a limited-service restaurant license is ~~\$605~~ \$750.

192 (4) The bond amount required for a limited-service restaurant license is the penal sum
193 of \$5,000.

194 Section 5. Section **32B-6-603** is amended to read:

195 **32B-6-603. Commission's power to issue on-premise banquet license -- Contracts
196 as host.**

197 (1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption
198 of an alcoholic product in connection with the person's banquet and room service activities at
199 one of the following, the person shall first obtain an on-premise banquet license in accordance
200 with this part:

201 (i) a hotel;

202 (ii) a resort facility;

203 (iii) a sports center; or

204 (iv) a convention center.

205 (b) This part does not prohibit an alcoholic product on the premises of a person listed
206 in Subsection (1)(a) to the extent otherwise permitted by this title.

207 (c) This section does not prohibit a person who applies for an on-premise banquet
208 license to also apply for a package agency if otherwise qualified.

209 (2) The commission may issue an on-premise banquet license to establish on-premise
210 banquet licensees in the numbers the commission considers proper for the storage, sale, offer
211 for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room
212 service activities operated by an on-premise banquet licensee.

213 (3) Subject to Section **32B-1-201**, the commission may not issue a total number of

214 on-premise banquet licenses that at any time exceed the number determined by dividing the
215 population of the state by [30,000] 28,765.

216 (4) Pursuant to a contract between the host of a banquet and an on-premise banquet
217 licensee:

218 (a) the host of the banquet may request an on-premise banquet licensee to provide an
219 alcoholic product served at the banquet; and

220 (b) an on-premise banquet licensee may provide an alcoholic product served at the
221 banquet.

222 (5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

223 (a) without charge to a patron at a banquet, except that the host of the banquet shall pay
224 for an alcoholic product furnished at the banquet; or

225 (b) with a charge to a patron at the banquet.

226 Section 6. Section **32B-6-703** is amended to read:

227 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

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

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

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

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

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

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

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

- (I) a beer bar;
(II) a parlor;
(III) a lounge;
(IV) a cabaret; or
(V) a nightclub;

(B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
(I) whether the on-premise beer retailer will sell food in the establishment; and
(II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;

(C) whether full meals including appetizers, main courses, and desserts will be served;
(D) the square footage and seating capacity of the premises;
(E) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;
(F) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;
(G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and
(H) the beer retailer management's ability to manage and operate an on-premise beer retailer license including:
(I) management experience;
(II) past beer retailer management experience; and
(III) the type of management scheme that will be used by the beer retailer.

(e) On or after March 1, 2012:
(i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
(A) maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer ~~S → [or have a contract meeting the requirements of Subsection (2)(e)(v) with a political subdivision that owns and operates a recreational amenity on or directly adjoining the licensed premises of the beer retailer]~~, except that a person may include gross revenue from business directly related to a recreational amenity that is owned or operated by a political subdivision if the person has a contract meeting the requirements of Subsection (2)(e)(v) with the political subdivision ~~← S~~ ; or
(B) have a recreational amenity on or directly adjoining the licensed premises of the

276 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
277 food.

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

280 (A) meet the requirements of Subsection (2)(e)(i); or
281 (B) operate as a tavern.

282 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
283 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
284 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
285 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

286 (B) If an on-premise beer retailer fails to notify the department as required by
287 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
288 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
289 retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an
290 on-premise beer retailer license that is not a tavern and does not meet the requirements of
291 Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).

292 (iv) A person who, after August 1, 2011, applies for an on-premise beer retailer license
293 that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or
294 construct facilities for the dispensing or storage of an alcoholic product that do not meet the
295 requirements of Subsection 32B-6-905(12)(a)(ii).

296 (v) A contract described in Subsection (2)(e)(i)(A) shall ~~S→ [provide the following]~~ ←S :
297 (A) ~~S→ [the total gross revenue from the operations of the recreational amenity by the~~
298 ~~political subdivision shall equal or exceed an amount calculated by multiplying the beer~~
299 ~~retailer's total gross receipts by 70%]~~ allow the beer retailer to include the total gross revenue
299a ~~from operations of the recreational amenity in the beer retailer's total gross receipts for~~
299b ~~purposes of Subsection (2)(e)(i)(A)~~ ←S ; and

300 (B) ~~S→ give ←S the department S→ [shall have] ←S the authority to audit financial~~
300a ~~information of the~~
301 ~~political subdivision to the extent necessary to confirm that the S→ [requirement of Subsection~~
302 ~~(2)(e)(v)(A) is] requirements of Subsection (2)(e)(i)(A) are ←S met.~~

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

304 (a) The commission may not issue a total number of on-premise beer retailer licenses
305 that are taverns that at any time exceeds the number determined by dividing the population of
306 the state by [54,147] 73,666.

307 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
308 in accordance with Section 32B-5-206.

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

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

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

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

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

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

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

321 Section 7. Section 32B-6-803 is amended to read:

32B-6-803. Commission's power to issue reception center license.

323 (1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its
324 premises as a reception center, the person shall first obtain a reception center license from the
325 commission in accordance with this part.

326 (2) The commission may issue a reception center license to establish reception center
327 licensed premises at places and in numbers the commission considers proper for the storage,
328 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated
329 as a reception center.

330 (3) Subject to Section 32B-1-201, the commission may not issue a total number of
331 reception center licenses that at any time exceeds the number determined by dividing the
332 population of the state by [56,313] 251,693.

333 (4) The commission may not issue a reception center license for premises that do not
334 meet the proximity requirements of Section 32B-1-202.

335 ~~§→ [Section 8. Section 32B-7-202 is amended to read:~~

336 ~~32B-7-202. General operational requirements for off-premise beer retailer.~~

337 ~~(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply~~ *

338 ~~• with this section.~~

339 ~~(b) Failure to comply with this section may result in a suspension or revocation of a~~
340 ~~local license.~~

341 ~~(2) (a) An off-premise beer retailer may not purchase, acquire, possess for the~~
342 ~~purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases~~
343 ~~from:~~

344 ~~(A) a beer wholesaler licensee; or~~

345 ~~(B) a small brewer that manufactures the beer.~~

346 ~~(ii) A violation of Subsection (2)(a) is a class A misdemeanor.~~

347 ~~(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a~~
348 ~~beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer~~
349 ~~wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area~~
350 ~~in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by~~
351 ~~the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.~~

352 ~~(ii) A violation of Subsection (2)(b) is a class B misdemeanor.~~

353 ~~(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a~~
354 ~~container larger than two liters.~~

355 ~~(4) A minor may not sell beer on the licensed premises of an off-premise beer retailer~~
356 ~~unless:~~

357 ~~(a) the sale is done under the supervision of a person 21 years of age or older who is on~~
358 ~~the licensed premises; and~~

359 ~~(b) the minor is at least 16 years of age.~~

360 ~~(5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer~~
361 ~~retailer shall:~~

362 ~~(i) display beer sold by the off-premise beer retailer in an area that is visibly separate~~
363 ~~and distinct from the area where nonalcoholic beverages are displayed; and~~

364 ~~(ii) display a sign in the area described in Subsection (5)(a)(i) that:~~

365 ~~(A) is prominent;~~

366 ~~(B) is easily readable by a consumer;~~

367 ~~(C) meets the requirements for format established by the commission by rule; and~~

368 ~~(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain •~~

369 • alcohol. Please read the label carefully."

370 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer
371 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

372 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
373 labeled, packaged, or advertised as:

374 (i) a malt cooler; or

375 (ii) a beverage that may provide energy.

376 (d) The commission shall define by rule what constitutes an "area that is visibly
377 separate and distinct from the area where a nonalcoholic beverage is displayed."

378 (e) A violation of this Subsection (5) is an infraction.

379 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
380 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
381 shall wear a unique identification badge:

382 (i) on the front of the staff's clothing;

383 (ii) visible above the waist;

384 (iii) bearing the staff's:

385 (A) first or last name;

386 (B) initials; or

387 (C) unique identification in letters or numbers; and

388 (iv) with the number or letters on the unique identification badge being sufficiently
389 large to be clearly visible and identifiable while engaging in or directly supervising the retail
390 sale of beer.

391 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
392 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

393 (i) full name;

394 (ii) address; and

395 (iii) (A) driver license number; or

396 (B) similar identification number.

397 (c) An off-premise beer retailer shall make available a record required to be made or
398 maintained under this Subsection (6) for immediate inspection by:

399 (i) a peace officer; or •

400 ~~(ii) a representative of the local authority that issues the off-premise beer retailer
401 license.~~

402 ~~(d) A local authority may impose a fine of up to \$250 against an off-premise beer
403 retailer that does not comply or require its staff to comply with this Subsection (6).~~

404 ~~(7) An off-premise beer retailer may not sell, offer for sale, or furnish a beer through a
405 window or door to a location off the licensed premises or to a vehicular traffic area.]~~ ←\$

406 Section \$→ [9] 8 ←\$. Section 32B-8a-202 is amended to read:

407 **32B-8a-202. Effect of transfer of ownership of business entity.**

408 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is
409 acquired by or transferred to one or more persons who did not hold the ownership of 51% of
410 those shares of stock on the date a retail license is issued to the corporation, the corporation
411 shall comply with this chapter to transfer the retail license to the corporation as if the
412 corporation is newly constituted.

413 (b) When there is a new general partner or when the ownership of 51% or more of the
414 capital or profits of a limited partnership is acquired by or transferred to one or more persons as
415 general or limited partners and who did not hold ownership of 51% or more of the capital or
416 profits of the limited partnership on the date a retail license is issued to the limited partnership,
417 the limited partnership shall comply with this chapter to transfer the retail license to the limited
418 partnership as if the limited partnership is newly constituted.

419 (c) When the ownership of 51% or more of the interests in a limited liability company
420 is acquired by or transferred to one or more persons as members who did not hold ownership of
421 51% or more of the interests in the limited liability company on the date a retail license is
422 issued to the limited liability company, the limited liability company shall comply with this
423 chapter to transfer the retail license to the limited liability company as if the limited liability
424 company is newly constituted.

425 ~~[(2) A business entity may not transfer a retail license under this section unless, before
426 the filing of the transfer application with the department, the business entity initiating the
427 transfer complies with Section 32B-8a-301.]~~

428 ~~[(3)] (2) If a business entity fails to comply with this section within 30 days of the day
429 on which the event described in Subsection (1) occurs, the business entity's retail license is
430 automatically forfeited.~~

431 Section 10. Section **32B-8a-203** is amended to read:

432 **32B-8a-203. Operational requirements for transferee.**

433 (1) (a) A transferee shall begin operations of the retail license within 30 days from the
434 day on which a transfer is approved by the commission, except that:

435 (i) the department may grant an extension of this time period not to exceed 30 days[::];

436 and

437 (ii) after the extension is authorized by the department under Subsection (1)(a)(i), the
438 commission may grant one or more additional extensions not to exceed, in the aggregate, seven
439 months from the day on which the commission approves the transfer, if the transferee can
440 demonstrate to the commission that the transferee:

441 (A) cannot begin operations because the transferee is improving the licensed premises;

442 (B) has obtained a building permit for the improvements described in Subsection

443 (1)(a)(ii)(A); and

444 (C) is working expeditiously to complete the improvements to the licensed premises.

445 (b) A transferee is considered to have begun operations of the retail license if the
446 transferee:

447 (i) has a licensed premises that is open to the public;

448 (ii) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed
449 premises described in Subsection (1)(b)(i); and

450 (iii) has a valid business license.

451 (2) If a transferee fails to begin operations of the retail license within the time period
452 required by Subsection (1), ~~[the retail license is forfeited and the commission may issue the~~
453 ~~retail license to another person]~~ the following are automatically forfeited effective immediately:

454 (a) the retail license; and

455 (b) the retail license fee.

456 (3) A transferee shall begin operations of the retail license at the location to which the
457 transfer applies before the transferee may seek a transfer of the retail license to a different
458 location.

459 (4) Notwithstanding Subsection (1), the commission may not issue a conditional
460 license unless the requirements of Section 32B-5-205 are met, except that the time periods
461 required by this section supersede the time period provided in Section 32B-5-205.

462 Section 11. Section **32B-8a-302** is amended to read:

463 **32B-8a-302. Application -- Approval process.**

464 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
465 file a transfer application with the department that includes:

466 (a) an application in the form provided by the department;

467 (b) a statement as to whether the consideration, if any, to be paid to the transferor

468 includes payment for [any or all of the following: (i) inventory; (ii) fixtures; and (iii)] transfer
469 of the retail license;

470 (c) [~~a copy of the notice of intended transfer~~] a statement executed under penalty of
471 perjury that the consideration as set forth in the escrow agreement required by Section
472 [32B-8a-401](#) is deposited with the escrow holder; and

473 (d) (i) an application fee of \$300; and

474 (ii) a transfer fee determined in accordance with Section [32B-8a-303](#).

475 (2) If the intended transfer of a retail license involves consideration, at least 10 days

476 before the commission may approve the transfer, the department shall post a notice of the
477 intended transfer on the Public Notice Website created in Section [63F-1-701](#) that states the
478 following:

479 (a) the name of the transferor;

480 (b) the name and address of the business currently associated with the retail license;

481 (c) instructions for filing a claim with the escrow holder; and

482 (d) the projected date that the commission may consider the transfer application.

483 [~~(2)~~] (3) (a) (i) Before the commission may approve the transfer of a retail license, the
484 department shall conduct an investigation and may hold public hearings to gather information
485 and make recommendations to the commission as to whether the transfer of the retail license
486 should be approved.

487 (ii) The department shall forward the information and recommendations described in
488 this Subsection [~~(2)~~] (3)(a) to the commission to aid in the commission's determination.

489 (b) Before approving a transfer, the commission shall:

490 (i) determine that the transferee filed a complete application;

491 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
492 transferred at the premises to which the retail license would be transferred;

493 (iii) determine that the transferee is not delinquent in the payment of an amount
494 described in Subsection 32B-8a-201(3);
495 (iv) determine that the transferee is not disqualified under Section 32B-1-304;
496 (v) consider the locality within which the proposed licensed premises is located,
497 including the factors listed in Section 32B-5-203 for the issuance of a retail license;
498 (vi) consider the transferee's ability to manage and operate the retail license to be
499 transferred, including the factors listed in Section 32B-5-203 for the issuance of a retail license;
500 (vii) consider the nature or type of retail licensee operation of the transferee, including
501 the factors listed in Section 32B-5-203 for the issuance of a retail license;
502 (viii) if the transfer involves consideration, determine that the transferee and transferor
503 have complied with Part 4, Protection of Creditors; and
504 (ix) consider any other factor the commission considers necessary.
505 [3)] (4) (a) Except as provided in Subsection [3)] (4)(b), the commission may not
506 approve the transfer of a retail license to premises that do not meet the proximity requirements
507 of Section 32B-1-202.
508 (b) If after a transfer of a retail license the transferee operates the same type of retail
509 license at the same location as did the transferor, the commission may waive or vary the
510 proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the
511 transfer under the same circumstances that the commission may waive or vary the proximity
512 requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a
513 retail license.
514 Section 12. Section 32B-8a-401 is amended to read:
515 **32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.**
516 (1) Before the filing of a transfer application with the department, if the intended
517 transfer of a retail license involves consideration:
518 (a) the transferor shall provide the transferee a list of creditors who have a claim
519 against the transferor;
520 (b) the transferee shall [provide a copy of the notice of intended transfer to] notify each
521 creditor on the list provided under Subsection (1)(a) of the intended transfer;
522 (c) the transferor and the transferee shall establish an escrow with a person who is not a
523 party to the transfer to act as escrow holder;

524 (d) the transferee shall deposit with the escrow holder the full amount of the
525 consideration; and

526 (e) the transferor and transferee shall enter into an agreement that:

527 (i) the consideration is deposited with the escrow holder;

528 (ii) requires the escrow holder to distribute the consideration within a reasonable time
529 after the completion of the transfer of the retail license; and

530 (iii) directs the escrow holder to distribute the consideration in accordance with
531 Subsection (2).

532 (2) Subject to the other requirements of this section, if a creditor with a claim against
533 the transferor files the claim with the escrow holder before the escrow holder is notified by the
534 department that the transfer is approved, the escrow holder shall distribute the consideration in
535 the following order:

536 (a) to the payment of:

537 (i) the United States for a claim based on income or withholding taxes; and

538 (ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);

539 (b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued
540 by an employee of the transferor before the transfer or opening of the escrow for the transfer of
541 the retail license;

542 (c) to the payment of a claim of a secured creditor to the extent of the proceeds that
543 arise from the sale of the security;

544 (d) to the payment of a claim on a mechanics lien;

545 (e) to the payment of:

546 (i) escrow fees;

547 (ii) a claim for prevailing brokerage fees for services rendered; and

548 (iii) a claim for reasonable attorney fees for services rendered;

549 (f) to the payment of claims:

550 (i) of a landlord, to the extent of proceeds on past due rent or lease requirements;

551 (ii) for goods sold and delivered to the retail licensee for resale at the transferor's
552 licensed premises; and

553 (iii) for services rendered, performed, or supplied in connection with the operation of
554 the transferor's licensed business;

555 (g) to the payment of other types of claims that are reduced to court-ordered judgments,
556 including a claim for court-ordered support of a minor child; and
557 (h) to the payment of all other claims.

558 **Section 13. Repealer.**

559 This bill repeals:

560 Section **32B-8a-301, Notice of intended transfer.**

561 Section **32B-8a-403, Statement by transferee.**

562 **Section 14. Effective date.**

563 (1) Amendments to the following sections take effect if approved by two-thirds of all
564 the members elected to each house, upon approval by the governor, or the day following the
565 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
566 signature, or in the case of a veto, the date of veto override:

567 (a) Section **32B-6-203**;

568 (b) Section **32B-6-303**;

569 (c) Section **32B-6-703**; and

570 (d) Section **32B-6-803**.

571 (2) Except for the sections listed in Subsection (1), this bill takes effect on May 10,
572 2016.

Legislative Review Note

Office of Legislative Research and General Counsel