

## HB0442S02 compared with HB0442S01

~~text~~ shows text that was in HB0442S01 but was deleted in HB0442S02.

Inserted text shows text that was not in HB0442S01 but was inserted into HB0442S02.

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**Representative Brad R. Wilson** proposes the following substitute bill:

### ALCOHOL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad R. Wilson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to the regulation of alcoholic beverages.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the name of certain retail licenses;
- ▶ provides that a local authority may issue a business license to a retail licensee only if the licensee is lawfully present in the United States;
- ▶ provides that a licensee or permittee may only engage in behavior expressly allowed by Title 32B, Alcoholic Beverage Control Act, or local ordinance;
- ▶ requires the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Commission to implement and enforce the provisions of Title 32B,

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Alcoholic Beverage Control Act, in accordance with its express language and stated policy purpose;

- ▶ reduces the permissible proximity of a restaurant licensee to a community location;
- ▶ removes the commission's authority to grant a variance to the proximity requirements;
- ▶ modifies the calculation of the money from the sale of a bottle of wine by a retail licensee or sublicensee in determining the percentage of gross receipts from the sale of food or an alcoholic product;
- ▶ requires electronic age verification of certain individuals who ~~{sit, remain, or consume food or beverage}~~ procure an alcoholic product in a dispensing area in a restaurant;
- ▶ modifies the application requirements for approval of the label and packaging of a malted beverage;
- ▶ modifies the labeling and packaging requirements for certain malted beverages;
- ▶ reduces and modifies the membership of the Alcoholic Beverage Control Advisory Board;
- ▶ increases the mark-up on alcoholic beverages;
- ▶ creates two school-based underage drinking prevention programs that are presented to students in grades 8 and 10 in the state;
- ▶ requires a presiding officer to consider any aggravating circumstances or mitigating circumstances when imposing a fine;
- ▶ provides that each retail licensee shall submit a responsible alcohol service plan to the department upon application for or renewal of a retail license;
- ▶ prohibits more than one type of retail license for the same room, unless the licenses are a combination of two or more of the following:
  - a restaurant license;
  - an on-premise beer retailer license that is not a tavern; and
  - an on-premise banquet license or reception center license;
- ▶ provides that an individual may not carry a sealed container of an alcoholic beverage from the premises of a retail licensee;
- ▶ states that a retail licensee may provide wine service for a bottled wine carried onto

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the licensed premises or purchased at the licensed premises;

- ▶ requires the department to develop the following training programs:
  - a training program for retail managers ~~{ and retail owners }~~;
  - a training program for off-premise retail managers; and
  - a training program for an individual who commits a violation related to service to an intoxicated individual or a minor;
- ▶ enacts a process for the Department of Public Safety to track violations of each retail licensee involving the sale of an alcoholic product to a minor;
- ▶ establishes a flat renewal fee for a full-service restaurant licensee;
- ▶ provides that beginning on July 1, 2017, and no later than July 1, 2018, a restaurant licensee that does not have a grandfathered bar structure shall designate a dispensing area within which:
  - the restaurant licensee may store and dispense alcoholic product at a dispensing structure;
  - an individual 21 years of age or older may consume food and beverages; and
  - except under certain circumstances, a minor may not be present;
- ▶ removes grandfathered bar structures beginning on July 1, 2022;
- ▶ extends the hours during which a restaurant licensee may sell, offer for sale, or furnish an alcoholic product on a weekend or a state or federal legal holiday;
- ▶ provides that a restaurant licensee may sell, offer for sale, or furnish an alcoholic product to a patron only if:
  - the patron is seated in a dispensing area and furnished no more than one portion or an alcoholic product while waiting for a seat in the dining area where the patron intends to order and consume food; or
  - the patron is seated at a table, counter, or dispensing structure ~~{,}~~ and ~~{~~
  - ~~the restaurant licensee confirms that~~ the patron intends to order ~~{food }~~ and consume ~~{the }~~ food in the same location where the patron is seated;
- ▶ provides that a restaurant licensee may not transfer, dispense, or serve an alcoholic product from a movable cart;
- ▶ addresses the retention of certain records for restaurant licensees;
- ▶ requires a restaurant licensee or a bar licensee to display a sign that states whether

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the licensee is a restaurant or a bar;

- ▶ prohibits the commission from issuing or renewing a dining club license on or after July 1, 2017;
- ▶ provides that effective July 1, 2018, each dining club licensee converts to a full-service restaurant licensee or a bar licensee;
- ▶ provides a phased transition for a dining club licensee that converts to a full-service restaurant licensee;
- ▶ allows a performing arts facility to obtain an on-premise banquet license;
- ▶ beginning July 1, 2018, establishes an off-premise beer retailer state license, including an application process, fees, and renewal procedures;
- ▶ provides that an off-premise beer retailer shall display beer in no more than two locations that are separate from any nonalcoholic beverage;
- ▶ addresses notification to the department if an off-premise beer retailer changes ownership;
- ▶ modifies and repeals certain provisions related to local authority enforcement of off-premise beer retailers to correspond with the state enforcement mechanisms available under the off-premise beer retailer state license; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**11-10-1**, as last amended by Laws of Utah 2010, Chapter 276

**11-10-2**, as last amended by Laws of Utah 1990, Chapter 23

**26-38-2**, as last amended by Laws of Utah 2012, Chapter 171

**32B-1-102**, as last amended by Laws of Utah 2016, Chapters 80, 176, and 348

**32B-1-104**, as enacted by Laws of Utah 2010, Chapter 276

**32B-1-201**, as last amended by Laws of Utah 2013, Chapter 349

**32B-1-202**, as last amended by Laws of Utah 2016, Chapter 176

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- 32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334
- 32B-1-305**, as last amended by Laws of Utah 2015, Chapter 351
- 32B-1-407**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 32B-1-505**, as last amended by Laws of Utah 2011, Chapter 297
- 32B-1-604**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-1-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 32B-1-606**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-202**, as last amended by Laws of Utah 2016, Chapter 80
- 32B-2-210**, as last amended by Laws of Utah 2016, Chapter 158
- 32B-2-304**, as last amended by Laws of Utah 2012, Chapter 357
- 32B-2-306**, as enacted by Laws of Utah 2012, Chapter 388
- 32B-3-102**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-4-410**, as last amended by Laws of Utah 2015, Chapter 165
- 32B-4-415**, as last amended by Laws of Utah 2016, Chapters 80, 245, and 348
- 32B-4-501**, as last amended by Laws of Utah 2016, Chapter 80
- 32B-5-201**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-202**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-307**, as last amended by Laws of Utah 2016, Chapter 82
- 32B-5-402**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-403**, as last amended by Laws of Utah 2016, Chapter 176
- 32B-5-404**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334
- 32B-6-204**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 32B-6-205**, as last amended by Laws of Utah 2013, Chapter 353
- 32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334
- 32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353
- 32B-6-401**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-6-403**, as last amended by Laws of Utah 2016, Chapter 80
- 32B-6-404**, as last amended by Laws of Utah 2016, Chapter 348
- 32B-6-405**, as last amended by Laws of Utah 2011, Chapters 307 and 334

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**32B-6-406**, as last amended by Laws of Utah 2011, Chapter 334  
**32B-6-406.1**, as enacted by Laws of Utah 2010, Chapter 276  
**32B-6-407**, as last amended by Laws of Utah 2013, Chapter 349  
**32B-6-408**, as enacted by Laws of Utah 2010, Chapter 276  
**32B-6-603**, as last amended by Laws of Utah 2016, Chapter 82  
**32B-6-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334  
**32B-6-703**, as last amended by Laws of Utah 2016, Chapter 82  
**32B-6-706**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2  
**32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2  
**32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353  
**32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307  
**32B-7-305**, as enacted by Laws of Utah 2010, Chapter 276 and last amended by  
**Coordination Clause, Laws of Utah 2010, Chapter 276**  
**32B-8-102**, as last amended by Laws of Utah 2015, Chapter 258  
**32B-8-304**, as last amended by Laws of Utah 2011, Chapters 297 and 334  
**32B-8a-302**, as last amended by Laws of Utah 2016, Chapter 82  
**32B-8b-102**, as enacted by Laws of Utah 2016, Chapter 80  
**32B-8b-201**, as enacted by Laws of Utah 2016, Chapter 80  
**53-10-305**, as last amended by Laws of Utah 2010, Chapter 276  
**53A-13-102**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8  
**62A-15-401**, as last amended by Laws of Utah 2011, Chapter 334  
**63I-2-232**, as renumbered and amended by Laws of Utah 2008, Chapter 382

### ENACTS:

**32B-5-207**, Utah Code Annotated 1953  
**32B-5-405**, Utah Code Annotated 1953  
**32B-5-406**, Utah Code Annotated 1953  
**32B-6-205.2**, Utah Code Annotated 1953  
**32B-6-205.3**, Utah Code Annotated 1953  
**32B-6-305.2**, Utah Code Annotated 1953  
**32B-6-305.3**, Utah Code Annotated 1953  
**32B-6-404.1**, Utah Code Annotated 1953

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32B-6-905.1, Utah Code Annotated 1953

32B-6-905.2, Utah Code Annotated 1953

32B-7-401, Utah Code Annotated 1953

32B-7-402, Utah Code Annotated 1953

32B-7-403, Utah Code Annotated 1953

32B-7-404, Utah Code Annotated 1953

32B-7-405, Utah Code Annotated 1953

~~{RENUMBERS AND AMENDS:~~

~~———— 32B-7-501, (Renumbered from 32B-7-305, as enacted by Laws of Utah 2010, Chapter 276 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 276)~~

~~}REPEALS:~~

~~32B-6-205.1, as enacted by Laws of Utah 2010, Chapter 276~~

~~32B-6-305.1, as enacted by Laws of Utah 2010, Chapter 276~~

~~{ ——— 32B-7-301, as enacted by Laws of Utah 2010, Chapter 276~~

~~———— 32B-7-302, as enacted by Laws of Utah 2010, Chapter 276~~

~~———— 32B-7-303, as enacted by Laws of Utah 2010, Chapter 276~~

~~———— 32B-7-304, as enacted by Laws of Utah 2010, Chapter 276~~

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

Section 1. Section **11-10-1** is amended to read:

**11-10-1. Business license required -- Authorization for issuance, denial, suspension, or revocation by local authority.**

(1) As used in this chapter, the following have the meaning set forth in Section 32B-1-102:

- (a) "alcoholic product";
- (b) "[~~club~~] bar establishment license";
- (c) "local authority"; and
- (d) "restaurant."

(2) A person may not operate an association, a restaurant, a bar, or a business similar to a business operated under a [~~club~~] bar establishment license, or other similar business that allows a person to possess or consume an alcoholic product on the premises of the association,

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restaurant, ~~[club]~~ bar, or similar business premises without a business license.

(3) (a) A local authority may issue a business license to a person who owns or operates an association, restaurant, ~~[club]~~ bar, or similar business that allows a person to hold, store, possess, or consume an alcoholic product on the premises.

(b) A business license issued under this Subsection (3) does not permit a person to hold, store, possess, or consume an alcoholic product on the premises other than as provided in Title 32B, Alcoholic Beverage Control Act.

(4) A local authority may suspend or revoke a business license for a violation of Title 32B, Alcoholic Beverage Control Act.

(5) A local authority shall set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking a business license issued under this chapter.

(6) A business license issued under this section does not constitute written consent of the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

Section 2. Section **11-10-2** is amended to read:

### **11-10-2. Qualifications of licensee.**

(1) A license may not be granted:

(a) unless the licensee is of good moral character, over the age of 21 years, and [~~a citizen of~~] lawfully present in the United States;

(b) to anyone who has been convicted of a felony or misdemeanor involving moral turpitude;

(c) to any partnership or association, any member of which lacks any of the qualifications set out in this section; or

(d) to any corporation, if any of its directors or officers lacks any qualification set out in this section.

(2) The local authority shall, before issuing licenses, satisfy itself by written evidence executed by the applicant that the applicant meets the standards set forth.

Section 3. Section **26-38-2** is amended to read:

### **26-38-2. Definitions.**

As used in this chapter:

(1) "E-cigarette":



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(a) means any electronic oral device:

(i) that provides a vapor of nicotine or other substance; and

(ii) which simulates smoking through its use or through inhalation of the device; and

(b) includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) e-cigar;

(C) e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a).

(2) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

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(ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a [~~club~~] bar establishment license, as defined in Section 32B-1-102.

(3) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(4) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine intended for inhalation through a cigar, cigarette, pipe, or hookah;

(c) except as provided in Section 26-38-2.6, using an e-cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

Section 4. Section **32B-1-102** is amended to read:

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

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

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(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

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

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

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

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

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

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

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

(b) described in Section 62A-15-401.

(6) "Banquet" means an event:

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

(i) hotel;

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- (ii) resort facility;
- (iii) sports center; [~~or~~]
- (iv) convention center; or
- (v) performing arts facility;
- (b) for which there is a contract:
  - (i) between a person operating a facility listed in Subsection (6)(a) and another person;

and

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

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

~~[(7)(a) "Bar" means a surface or structure:]~~

~~[(i) at which an alcoholic product is:]~~

~~[(A) stored; or]~~

~~[(B) dispensed; or]~~

~~[(ii) from which an alcoholic product is served:]~~

~~[(b)] (7) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:~~

~~[(i)] (a) stored; or~~

~~[(ii)] (b) dispensed.~~

~~[(18)] (8) (a) "[Club] Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, [Club] Bar Establishment License.~~

(b) "[Club] Bar establishment license" includes:

- (i) a dining club license;
- (ii) an equity [~~club~~] license;
- (iii) a fraternal [~~club~~] license; or
- (iv) a [~~social club~~] bar license.

~~[(102)] (9) "[Social club] Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, [Club License, that is designated by the commission as a social club license] Bar Establishment License.~~

~~[(8)] (10) (a) Subject to Subsection [(8)] (10)(d), "beer" means a product that:~~

- (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by

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volume or 3.2% by weight; and

- (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) "Beer" may or may not contain hops or other vegetable products.
- (c) "Beer" includes a product that:
  - (i) contains alcohol in the percentages described in Subsection [~~(8)~~] (10)(a); and
  - (ii) is referred to as:
    - (A) beer;
    - (B) ale;
    - (C) porter;
    - (D) stout;
    - (E) lager; or
    - (F) a malt or malted beverage.
- (d) "Beer" does not include a flavored malt beverage.

~~[(9)]~~ (11) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

~~[(10)]~~ (12) "Beer retailer" means a business that:

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

~~[(b) to whom a license is issued:]~~

(b) is licensed as:

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

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

~~[(11)]~~ (13) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and  
(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

~~[(12)]~~ (14) "Billboard" means a public display used to advertise, including:

- (a) a light device;
- (b) a painting;

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- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

~~[(13)]~~ (15) "Brewer" means a person engaged in manufacturing:

- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.

~~[(14)]~~ (16) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

~~[(15)]~~ (17) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

~~[(16)]~~ (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

~~[(17)]~~ (19) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

~~[(19)]~~ (20) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

~~[(20)]~~ (21) "Commissioner" means a member of the commission.

~~[(21)]~~ (22) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;

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(d) a public playground; or

(e) a public park.

~~[(22)]~~ (23) "Community location governing authority" means:

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

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

~~[(23)]~~ (24) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

~~[(24)]~~ (25) "Convention center" means a facility that is:

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

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

~~[(25)]~~ (26) (a) ~~[Subject to Subsection (25)(b), "counter"]~~ "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include ~~[a surface or structure if on or at any point of the surface or structure an alcoholic product is:]~~ a dispensing structure.

~~[(i) stored; or]~~

~~[(ii) dispensed:]~~

~~[(26)]~~ (27) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

~~[(27)]~~ (28) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

~~[(28)]~~ (29) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

~~[(29)]~~ (30) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License, that is designated

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by the commission as a dining club license.

~~[(30)]~~ (31) "Director," unless the context requires otherwise, means the director of the department.

~~[(31)]~~ (32) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

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

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

~~[(32)]~~ (33) (a) Subject to Subsection ~~[(32)]~~ (33)(b), "dispense" means:

(i) drawing of an alcoholic product:

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

(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

(ii) using the alcoholic product described in Subsection ~~[(32)]~~ (33)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection ~~[(32)]~~ (33) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

(34) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is stored or dispensed; or

(b) from which an alcoholic product is served.

~~[(33)]~~ (35) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

~~[(34)]~~ (36) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

~~[(35)]~~ (37) "Educational facility" includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.



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~~[(36)]~~ (38) "Equity [~~club~~] license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is designated by the commission as an equity [~~club~~] license.

~~[(37)]~~ (39) "Event permit" means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

~~[(38)]~~ (40) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

~~[(39)]~~ (41) (a) "Flavored malt beverage" means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

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

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

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

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

~~[(40)]~~ (42) "Fraternal [~~club~~] license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is designated by the commission as a fraternal [~~club~~] license.

~~[(41)]~~ (43) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

~~[(42)]~~ (44) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.

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~~[(43)]~~ (45) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

~~[(44)]~~ (46) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;  
(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;  
(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;  
(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

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

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

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

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

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

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

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

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

~~[(45)]~~ (47) (a) "Heavy beer" means a product that:

(i) contains more than 4% alcohol by volume; and

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

(b) "Heavy beer" is considered liquor for the purposes of this title.

~~[(46)]~~ (48) "Hotel" is as defined by the commission by rule.

~~[(47)]~~ (49) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

~~[(48)]~~ (50) "Identification card" means an identification card issued under Title 53,

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Chapter 3, Part 8, Identification Card Act.

~~[(49)]~~ (51) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

~~[(50)]~~ (52) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

~~[(51)]~~ (53) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

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

~~[(52)]~~ (54) "Intoxicated" means that a person:

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

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections ~~[(52)]~~ (54)(a)(i) through (iii); and

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

~~[(53)]~~ (55) "Investigator" means an individual who is:

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

~~[(54)]~~ (56) "Invitee" means the same as that term is defined in Section 32B-8-102.

~~[(55)]~~ (57) "License" means:

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

Licenses Act;

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

or

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

~~[(56)]~~ (58) "Licensee" means a person who holds a license.

~~[(57)]~~ (59) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~[(58)]~~ (60) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

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

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

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

~~[(59)]~~ (61) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

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

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

(IV) other drink or drinkable liquid; and

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

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

~~[(60)]~~ (62) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

~~[(61)]~~ (63) "Liquor warehousing license" means a license that is issued:

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

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

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~~[(62)]~~ (64) "Local authority" means:

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

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

~~[(63)]~~ (65) "Lounge or bar area" is as defined by rule made by the commission.

~~[(64)]~~ (66) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(65)]~~ (67) "Member" means an individual who, after paying regular dues, has full privileges in an equity ~~[club]~~ licensee or fraternal ~~[club]~~ licensee.

~~[(66)]~~ (68) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

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

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

~~[(67)]~~ (69) "Minor" means an individual under the age of 21 years.

~~[(68)]~~ (70) "Nondepartment enforcement agency" means an agency that:

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

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

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

~~[(69)]~~ (71) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

~~[(70)]~~ (72) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, ~~[Part 2,]~~ Off-Premise Beer Retailer ~~[Local~~

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~~Authority]~~ Act; and

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

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

(73) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

~~(71)~~ (74) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

~~(72)~~ (75) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

(A) as a tavern; or

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

~~(73)~~ (76) "Opaque" means impenetrable to sight.

~~(74)~~ (77) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

~~(75)~~ (78) "Package agent" means a person who holds a package agency.

~~(76)~~ (79) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

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- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort;
- (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

or

- (h) an invitee.

(80) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance,

music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

~~[(77)]~~ (81) "Permittee" means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

~~[(78)]~~ (82) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
  - (i) an out-of-state brewer;
  - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
  - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
  - (i) a person listed in Subsections ~~[(78)]~~ (82)(a) through (f); or
  - (ii) a package agent.

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~~[(79)]~~ (83) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~[(80)]~~ (84) "Prescription" means an order issued by a health care practitioner when:

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

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

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

~~[(81)]~~ (85) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

~~[(82)]~~ (86) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

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

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

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

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

(iv) a military identification card that:



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(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

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

~~[(83)]~~ (87) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

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

~~[(84)]~~ (88) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(85)]~~ (89) "Reception center" means a business that:

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

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(85)]~~ (89)(a) to a third party for the third party's event.

~~[(86)]~~ (90) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(87)]~~ (91) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

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

(b) "Record" includes:

(i) a book;

(ii) a book of account;

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- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

~~[(88)]~~ (92) "Residence" means a person's principal place of abode within Utah.

~~[(89)]~~ (93) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~[(90)]~~ (94) "Resort" means the same as that term is defined in Section 32B-8-102.

~~[(91)]~~ (95) "Resort facility" ~~{ }~~ is as ~~{ }~~ means a facility that is located within the boundaries of a ski resort, and as further defined by the commission by rule.

~~[(92)]~~ (96) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(97) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

~~[(93)]~~ (98) "Restaurant" means a business location:

- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served to the general public; and
- (c) that is engaged primarily in serving meals to the general public.

~~[(94)]~~ (99) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a ~~club~~ bar establishment license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;

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- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a resort license; or
- (l) a hotel license.

~~[(95)]~~ (100) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

~~[(96)]~~ (101) (a) "School" means a building used primarily for the general education of minors.

- (b) "School" does not include an educational facility.

~~[(97)]~~ (102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(98)]~~ (103) "Serve" means to place an alcoholic product before an individual.

~~[(99)]~~ (104) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
  - (i) a ~~[social club]~~ bar licensee; or
  - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection ~~[(99)]~~

(104)(b);

- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
  - (i) an employee;
  - (ii) an independent contractor;
  - (iii) an agent of the licensee; or

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(iv) a different type of classification.

~~[(100)]~~ (105) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(101)]~~ (106) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

~~[(103)]~~ (107) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(104)]~~ (108) (a) "Spirituous liquor" means liquor that is distilled.

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

~~[(105)]~~ (109) "Sports center" is as defined by the commission by rule.

~~[(106)]~~ (110) (a) "Staff" means an individual who engages in activity governed by this title:

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

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

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

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

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

(vi) an operator; or

(vii) a representative.

~~[(107)]~~ (111) "State of nudity" means:

(a) the appearance of:

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

(ii) a human genital;

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- (iii) a human pubic area; or
- (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
  - (i) the nipple or areola of a female human breast;
  - (ii) a human genital;
  - (iii) a human pubic area; or
  - (iv) a human anus.

~~[(108)]~~ (112) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
  - (i) with no less than the following at its widest point:
    - (A) four inches coverage width in the front of the human body; and
    - (B) five inches coverage width in the back of the human body; and
  - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(109)]~~ (113) (a) "State store" means a facility for the sale of packaged liquor:

- (i) located on premises owned or leased by the state; and
- (ii) operated by a state employee.
- (b) "State store" does not include:
  - (i) a package agency;
  - (ii) a licensee; or
  - (iii) a permittee.

~~[(110)]~~ (114) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

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

~~[(111)]~~ (115) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

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~~[(112)]~~ (116) "Supplier" means a person who sells an alcoholic product to the department.

~~[(113)]~~ (117) "Tavern" means an on-premise beer retailer who is:

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

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

~~[(114)]~~ (118) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~[(115)]~~ (119) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~[(116)]~~ (120) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~[(117)]~~ (121) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

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

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

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

~~[(118)]~~ (122) (a) "Wine" means an alcoholic product obtained by the fermentation of

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the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

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

~~[(119)]~~ (123) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 5. Section **32B-1-104** is amended to read:

### **32B-1-104. Exercise of police powers -- Severability.**

(1) (a) This title is an exercise of the police powers of the state for the protection of the public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product.

(b) This title governs alcoholic product control unless otherwise provided in this title.

(c) If this title or a local ordinance adopted in accordance with Section 32B-1-204 does not expressly permit a licensee or permittee to engage in an activity related to the storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product, the licensee or permittee may not engage in that activity.

(2) The department and the commission:

(a) shall implement and enforce the provisions of this title in accordance with the express language of the provisions and in a manner consistent with the policy described in Section 32B-1-103; and

(b) may not waive any provision of this title.

~~[(2)]~~ (3) If a provision of this title or the application of a provision to a person or circumstance is held invalid, the remainder of this title shall be given effect without the invalid provision or application. The provisions of this title are severable.

Section 6. Section **32B-1-201** is amended to read:

### **32B-1-201. Restrictions on number of retail licenses that may be issued -- Determining population -- Exempt licenses.**

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" means a law enforcement officer employed by the Department of Public Safety that has as a primary responsibility:

(i) the enforcement of this title; or

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(ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(b) "Enforcement ratio" is the number calculated as follows:

(i) determine the quotient equal to the sum of the total number of quota retail licenses available and the total number of licensed premises operating under a master full-service restaurant license or under a master limited-service restaurant license divided by the total number of alcohol-related law enforcement officers; and

(ii) round the number determined in accordance with Subsection (1)(b)(i) up to the nearest whole number.

(c) "Quota retail license" means:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a ~~club~~ bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer operating as a tavern; and

(vi) a reception center license.

(d) "Total number of alcohol-related law enforcement officers" means the total number of positions designated as alcohol-related law enforcement officers that are funded as of a specified date as certified by the Department of Public Safety to the department.

(e) "Total number of quota retail licenses available" means the number calculated by:

(i) determining as of a specified date for each quota retail license the number of licenses that the commission may not exceed calculated by dividing the population of the state by the number specified in the relevant provision for the quota retail license; and

(ii) adding together the numbers determined under Subsection (1)(e)(i).

(2) (a) Beginning on July 1, 2012, the department shall annually determine the enforcement ratio as of July 1 of that year.

(b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the commission may not issue a quota retail license for the 12-month period beginning on the July 1 for which the enforcement ratio is greater than 52.

(c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license during the 12-month period described in Subsection (2)(b) beginning on the day on which a



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sufficient number of alcohol-related law enforcement officers are employed so that if the enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

(d) Once the Department of Public Safety certifies under Subsection (1)(d) the total number of positions designated as alcohol-related law enforcement officers that are funded as of July 1, the Department of Public Safety may not use the funding for the designated alcohol-related law enforcement officers for a purpose other than funding those positions.

(3) For purposes of determining the number of state stores that the commission may establish or the number of package agencies or retail licenses that the commission may issue, the commission shall determine population by:

- (a) the most recent United States decennial or special census; or
- (b) another population determination made by the United States or state governments.

(4) The commission may not consider a retail license that meets the following conditions in determining the total number of licenses available for that type of retail license that the commission may issue at any time:

- (a) the retail license was issued to a club licensee designated as a dining club as of July 1, 2011; and
- (b) the dining club license is converted to another type of retail license in accordance with Section 32B-6-409.

Section 7. Section **32B-1-202** is amended to read:

### **32B-1-202. Proximity to community location.**

(1) ~~[For purposes of]~~ As used in this section~~["outlet" means]:~~

(a) (i) "Outlet" means:

~~[(a)]~~ (A) a state store;

~~[(b)]~~ (B) a package agency; or

~~[(c)]~~ (C) a retail licensee~~[, except an airport lounge licensee].~~

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

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(iii) a beer-only restaurant licensee.

(2) ~~(a) [Except as otherwise provided in this section, the]~~ The premises of an outlet may not be located:

~~[(a)]~~ (i) within 600 feet of a community location, as measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

~~[(b)]~~ (ii) within 200 feet of a community location, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the community location.

(b) The premises of a restaurant may not be located:

(i) within 450 feet of a community location, as measured from the nearest entrance of the restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of a community location, measured in a straight line from the nearest entrance of the restaurant to the nearest property boundary of the community location.

~~[(3) With respect to the location of an outlet, the commission may authorize a variance to reduce the proximity requirement of Subsection (2) if:]~~

~~[(a) when the variance reduces the proximity requirement of Subsection (2)(b), the community location at issue is:]~~

~~[(i) a public library; or]~~

~~[(ii) a public park;]~~

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

~~[(c) the commission finds that alternative locations for locating that type of outlet in the community are limited;]~~

~~[(d) a public hearing is held in the city, town, metro township, or county, and when practical in the neighborhood concerned;]~~

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

~~[(f) (i) the community location governing authority gives its written consent to the~~

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~~variance; or]~~

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

~~[(A) there is substantial unmet public demand to consume an alcoholic product:]~~

~~[(F) within the geographic boundary of the local authority in which the outlet is to be located; and]~~

~~[(H) for an outlet that is a retail licensee, in a public setting;]~~

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

~~[(C) there is no reasonably viable alternative location within the geographic boundary of the local authority in which the outlet is to be located for locating that type of outlet to satisfy the unmet demand:]~~

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

~~[(a) the premises previously received a variance reducing the proximity requirement of Subsection (2)(a);]~~

~~[(b) the premises received a variance reducing the proximity requirement of Subsection (2)(b) on or before May 4, 2008; or]~~

~~[(c) a variance from proximity requirements was otherwise allowed under this title:]~~

(3) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, the outlet or restaurant may continue to operate under the variance if the outlet or restaurant remains in continuous operation, regardless of whether the outlet or restaurant changes ownership.

~~[(5)]~~ (4) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet or a restaurant.

Section 8. Section **32B-1-207** is amended to read:

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

In calculating the annual gross receipts of a retail license or sublicense for purposes of determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food or an alcoholic product, a retail licensee may not include in the calculation the money from the sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of [~~\$250~~] \$175.

Section 9. Section **32B-1-305** is amended to read:

### **32B-1-305. Requirement for a background check.**

(1) The department shall require an individual listed in Subsection (2), in accordance with this part, to:

(a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and
- (iii) how the information will be used;

(b) submit to a background check in a form acceptable to the department; and

(c) consent to a background check by:

- (i) the Utah Bureau of Criminal Identification; and
- (ii) the Federal Bureau of Investigation.

(2) The following shall comply with Subsection (1):

(a) an individual applying for employment with the department if:

(i) the department makes the decision to offer the individual employment with the department; and

(ii) once employed, the individual will receive benefits;

(b) an individual applying to the commission to operate a package agency;

(c) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;

(d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:

- (i) a partner;
- (ii) a managing agent;

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- (iii) a manager;
  - (iv) an officer;
  - (v) a director;
  - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;
  - (vii) a member who owns at least 20% of a limited liability company; or
  - (viii) an individual employed to act in a supervisory or managerial capacity; or
  - (e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:
    - (i) is approved to operate a package agency; or
    - (ii) is licensed by the commission.
  - (3) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:
    - (a) continued operation of a package agency; or
    - (b) renewal of a license.
  - (4) The department may require as a condition of continued employment that a department employee:
    - (a) submit to a background check in a form acceptable to the department; and
    - (b) consent to a fingerprint criminal background check by:
      - (i) the Utah Bureau of Criminal Identification; and
      - (ii) the Federal Bureau of Investigation.
- Section 10. Section **32B-1-407** is amended to read:
- 32B-1-407. Verification of proof of age by applicable licensees.**
- (1) As used in this section, "applicable licensee" means:
    - (a) a dining club;
    - (b) a ~~[social club; or]~~ bar;
    - (c) a tavern~~[-]~~;
    - (d) a full-service restaurant;
    - (e) a limited-service restaurant; or
    - (f) a beer-only restaurant.

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(2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.

(3) An authorized person is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:

(a) gains admittance to the premises of a [~~social club~~] bar licensee or tavern; [~~or~~]

(b) procures an alcoholic product on the premises of a dining club licensee[~~-~~]; or

(c) ~~visits, remains, or consumes food or a beverage~~ procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee.

(4) To comply with Subsection (3), an authorized person shall:

(a) request the individual present proof of age; and

(b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

(ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.

(5) The commission shall establish by rule an electronic verification program that includes the following:

(a) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:

(i) the name;

(ii) the age;

(iii) the number assigned to the individual's proof of age by the issuing authority;

(iv) the birth date;

(v) the gender; and

(vi) the status and expiration date of the individual's proof of age; and

(b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

(i) used by the applicable licensee only for purposes of verifying proof of age in

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accordance with this section; and

(ii) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.

(6) (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.

(b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements.

Section 11. Section **32B-1-505** is amended to read:

### **32B-1-505. Sexually oriented entertainer.**

(1) Subject to the requirements of this part, live entertainment is permitted on premises or at an event regulated by the commission.

(2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a person to:

(a) appear or perform in a state of nudity;

(b) perform or simulate an act of:

(i) sexual intercourse;

(ii) masturbation;

(iii) sodomy;

(iv) bestiality;

(v) oral copulation;

(vi) flagellation; or

(vii) a sexual act that is prohibited by Utah law; or

(c) touch, caress, or fondle the breast, buttocks, anus, or genitals.

(3) A sexually oriented entertainer may perform in a state of seminudity:

(a) only in:

(i) a tavern; or

(ii) a [~~social club~~] bar license premises; and

(b) only if:

(i) the windows, doors, and other apertures to the premises are darkened or otherwise constructed to prevent anyone outside the premises from seeing the performance; and

(ii) the outside entrance doors of the premises remain unlocked.

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(4) A sexually oriented entertainer may perform only upon a stage or in a designated performance area that is:

(a) approved by the commission in accordance with rules made by the commission;

(b) configured so as to preclude a patron from:

(i) touching the sexually oriented entertainer; or

(ii) placing any money or object on or within the performance attire or the person of the sexually oriented entertainer; and

(c) configured so as to preclude the sexually oriented entertainer from touching a patron.

(5) A sexually oriented entertainer may not touch a patron:

(a) during the sexually oriented entertainer's performance; or

(b) while the sexually oriented entertainer is dressed in performance attire.

(6) A sexually oriented entertainer, while in the portion of the premises used by patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented entertainer's performance attire from the top of the breast to the knee.

(7) A patron may not be on the stage or in the performance area while a sexually oriented entertainer is appearing or performing on the stage or in the performance area.

(8) A patron may not:

(a) touch a sexually oriented entertainer:

(i) during the sexually oriented entertainer's performance; or

(ii) while the sexually oriented entertainer is dressed in performance attire; or

(b) place money or any other object on or within the performance attire or the person of the sexually oriented entertainer.

(9) A minor may not be on premises described in Subsection (3).

(10) A person who appears or performs for the entertainment of patrons on premises or at an event regulated by the commission that is not a tavern or ~~[social club]~~ bar licensee:

(a) may not appear or perform in a state of nudity or a state of seminudity; and

(b) may appear or perform in opaque clothing that completely covers the person's genitals, pubic area, and anus if the covering:

(i) is not less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and



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- (B) five inches coverage width in the back of the human body;
- (ii) does not taper to less than one inch wide at the narrowest point; and
- (iii) if covering a female, completely covers the breast below the top of the areola.

Section 12. Section **32B-1-604** is amended to read:

### **32B-1-604. Requirements for labeling and packaging -- Authority of the commission and department.**

(1) A manufacturer may not distribute or sell a malted beverage:

(a) unless the label and packaging of the malted beverage:

- (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and
- (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;

and

(b) until the day on which the department in accordance with this title and rules of the commission approves the label and packaging of the malted beverage.

(2) The department shall review the label and packaging of a malted beverage to ensure that the label and packaging meet the requirements of Subsection (1)(a).

(3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for a malted beverage any of the following terms:

(a) beer;

(b) ale;

(c) porter;

(d) stout;

(e) lager;

(f) lager beer; or

(g) another class or type designation commonly applied to a malted beverage that conveys by a recognized term that the product contains alcohol.

(4) (a) As used in this section, "previously approved malted beverage" means a malted beverage for which the manufacturer holds approval for the label and packaging under Subsection (1)(b) on May 9, 2017.

(b) Beginning May 9, 2017, the department shall review the label and packaging of each previously approved malted beverage for compliance with the provisions of this part.

(c) If, during the review described in Subsection (4)(b), the department determines that

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a previously approved malted beverage does not comply with the provisions of this part on or after May 9, 2017:

(i) the department shall send written notice to the manufacturer that states:

(A) that the manufacturer shall reapply for approval of the label and packaging of the malted beverage;

(B) an explanation, including each specific reason, the label or packaging of the manufacturer's previously approved malted beverage does not comply with the provisions of this part;

(C) how the manufacturer can comply with the provisions of this part; and

(~~B~~)D) the date by which the manufacturer shall submit an application to the department for approval; and

(ii) the manufacturer shall reapply for approval of the label and packaging of the malted beverage in accordance with the written notice and the provisions of this part.

(d) (i) A manufacturer, ~~wholesaler, or retailer~~ may distribute or sell a previously approved malted beverage through ~~December 31~~ April 30, 2018, in accordance with the manufacturer's most recent approval from the department.

(ii) After ~~December 31~~ April 30, 2018, a manufacturer ~~that receives a written notice from the department under Subsection (4)(c)~~, ~~wholesaler, or retailer~~ may not distribute or sell a previously approved malted beverage ~~unless the department approves the label and packaging of the malted beverage~~ that does not comply with the provisions of this part.

(e) The department shall ensure that the department notifies and takes action on each timely application submitted under this Subsection (4) before January 1, 2018.

Section 13. Section **32B-1-605** is amended to read:

### **32B-1-605. General procedure for approval.**

(1) To obtain approval of the label and packaging of a malted beverage, the manufacturer of the malted beverage shall submit an application to the department for approval.

(2) The application described in Subsection (1) shall be on a form approved by the department and include the following for each brand and label for which the manufacturer seeks approval:

(a) (i) a copy of a federal certificate of label approval from the United States

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Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau~~[, for each brand and label for which the manufacturer is seeking approval]; or~~

(ii) if the Bureau does not require label approval, a copy of formula approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

- (b) a complete set of original labels for each size of container of the malted beverage;
- (c) a description of the size of the container on which a label will be placed;
- (d) a description of each type of container of the malted beverage; and
- (e) a description of any packaging for the malted beverage.

(3) The department may assess a reasonable fee for reviewing a label and packaging for approval.

(4) (a) The department shall notify a manufacturer within 30 days after the day on which the manufacturer submits an application whether the label and packaging is approved or denied.

(b) If the department determines that an unusual circumstance requires additional time, the department may extend the time period described in Subsection (4)(a).

(5) A manufacturer shall obtain the approval of the department of a revision of a previously approved label and packaging before a malted beverage using the revised label and packaging may be distributed or sold in this state.

(6) (a) The department may revoke a label and packaging previously approved upon a finding that the label and packaging is not in compliance with this title or rules of the commission.

(b) The department shall notify the person who applies for the approval of a label and packaging at least five business days before the day on which a label and packaging approval is considered revoked.

(c) After receiving notice under Subsection (6)(b), a manufacturer may present written argument or evidence to the department on why the revocation should not occur.

(7) A manufacturer that applies for approval of a label and packaging may appeal a denial or revocation of a label and packaging approval to the commission.

Section 14. Section **32B-1-606** is amended to read:

**32B-1-606. Special procedure for certain malted beverages.**

~~[(1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a~~

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~~label or packaging used for a nonalcoholic beverage,]~~

(1) ~~Notwithstanding Subsection 32B-1-604(3),~~ a manufacturer of ~~[the flavored malt]~~ a malted beverage may not distribute or sell the ~~[flavored malt-]~~ malted beverage in this state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with this section and Sections 32B-1-604 and 32B-1-605, if the malted beverage is labeled or packaged in a manner that is:

~~[(a) Sections 32B-1-604 and 32B-1-605; and]~~

~~[(b) this section.]~~

(a) similar to a label or packaging used for a nonalcoholic beverage; or

(b) likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.

(2) The department may not approve the labeling and packaging of a ~~[flavored malt]~~ malted beverage described in Subsection (1) unless in addition to the requirements of Section 32B-1-604 the labeling and packaging complies with the following:

(a) the label on the ~~[flavored malt]~~ malted beverage ~~[shall bear]~~ bears a prominently displayed label or a firmly affixed sticker that provides the following information:

(i) the statement:

(A) "alcoholic beverage"~~{ }; { }~~ or~~{ }~~

(B)~~{ }~~ "contains alcohol"; and

~~{ — (B) "beer," "flavored malt beverage," or "heavy beer," in accordance with the type of malted beverage as defined in this title; and~~

~~{~~ (ii) the alcohol content of the ~~[flavored malt]~~ malted beverage~~[-];~~

(b) the packaging of ~~[a flavored malt]~~ the malted beverage ~~[shall]~~ prominently ~~[include]~~ includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the statement:

(i) "alcoholic beverage"; or

(ii) "contains alcohol"~~[-];~~

(c) a statement required by Subsection (2)(a) or (b) ~~[shall appear]~~ appears in a format required by rule made by the commission~~[-]; and~~

(d) a statement of alcohol content required by Subsection (2)(a)(ii):

(i) ~~[shall state]~~ states the alcohol content as a percentage of alcohol by volume or by

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weight;

(ii) [~~may~~] does not use an abbreviation, but [~~shall use~~] uses the complete words "alcohol," "volume," or "weight"; and

(iii) [~~shall be~~] is in a format required by rule made by the commission.

(3) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2).

(4) To determine whether a [~~flavored malt~~] malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:

(a) whether the coloring, carbonation, and packaging of the [~~flavored malt~~] malted beverage:

(i) is similar to those of a nonalcoholic beverage or product; or

(ii) can be confused with a nonalcoholic beverage;

(b) whether the [~~flavored malt~~] malted beverage possesses a character and flavor distinctive from a traditional malted beverage;

(c) whether the [~~flavored malt~~] malted beverage:

(i) is prepackaged;

(ii) contains high levels of caffeine and other additives; and

(iii) is marketed as a beverage that is specifically designed to provide energy;

(d) whether the [~~flavored malt~~] malted beverage contains added sweetener or sugar substitutes; or

(e) whether the [~~flavored malt~~] malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 15. Section **32B-2-202** is amended to read:

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

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

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

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license,

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permit, or certificate of approval; and

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

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

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

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a [~~club~~] bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, under which at least four or more sublicenses may be included;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, under which at least three or more sublicenses may be included;

(xiv) subject to Subsection (4), a single event permit;

(xv) subject to Subsection (4), a temporary beer event permit;

(xvi) a special use permit;

(xvii) a manufacturing license;

(xviii) a liquor warehousing license;

(xix) a beer wholesaling license; and

(xx) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

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

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

(f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke conditional

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licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product;

(g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

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

(i) considered expedient; and

(ii) approved by the governor;

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

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

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

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

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- (a) establish a state store;
- (b) issue authority to act as a package agent or operate a package agency; and
- (c) issue or deny a license, permit, or certificate of approval.

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

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

Section 16. Section **32B-2-210** is amended to read:

### **32B-2-210. Alcoholic Beverage Control Advisory Board.**

(1) There is created within the department an advisory board known as the "Alcoholic Beverage Control Advisory Board."

(2) The advisory board shall consist of [~~12 members~~] eight voting members and one nonvoting member as follows:

(a) [~~the following~~] four voting members appointed by the commission[~~, a representative of~~]:

- [~~(i) a full-service restaurant licensee;~~]
- [~~(ii) a limited-service restaurant licensee;~~]
- [~~(iii) a beer-only restaurant licensee;~~]
- [~~(iv) a social club licensee;~~]
- [~~(v) a fraternal club licensee;~~]
- [~~(vi) a dining club licensee;~~]
- [~~(vii) a wholesaler licensee;~~]
- [~~(viii) an on-premise banquet licensee;~~]
- [~~(ix) an on-premise beer retailer licensee; and~~]
- [~~(x) a reception center licensee;~~]

- (i) one of whom represents the retail alcohol industry;
- (ii) one of whom represents the wholesale alcohol industry;
- (iii) one of whom represents the alcohol manufacturing industry; and
- (iv) one of whom represents the restaurant industry;

(b) two voting members appointed by the commission, each of whom represents an



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organization that addresses alcohol or drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee who serves as a voting member;

~~[(b)]~~ (d) the chair of the Utah Substance Use and Mental Health Advisory Council, or the chair's designee, who serves as a voting member; and

~~[(c)]~~ (e) the chair of the commission or the chair's designee from the members of the commission, who ~~[shall serve]~~ serves as a nonvoting member.

(3) (a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4) (a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet no more than quarterly as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7) (a) ~~[Six]~~ Five members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

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- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 17. Section **32B-2-304** is amended to read:

### **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

- (1) For purposes of this section:
  - (a) (i) "Landed case cost" means:
    - (A) the cost of the product; and
    - (B) inbound shipping costs incurred by the department.
  - (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.
- (b) "Proof gallon" [~~has~~] means the same [~~meaning as~~] as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

- (2) Except as provided in Subsection (3):
  - (a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than [~~86%~~] 88% above the landed case cost to the department;
  - (b) wine sold by the department within the state shall be marked up in an amount not less than [~~86%~~] 88% above the landed case cost to the department;
  - (c) heavy beer sold by the department within the state shall be marked up in an amount not less than [~~64.5%~~] 66.5% above the landed case cost to the department; and
  - (d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than [~~86%~~] 88% above the landed case cost to the department.
- (3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than [~~15%~~] 17% above the landed case cost to the department.
  - (b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up [~~47%~~] 49% above the landed case cost to the department if:

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(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up [~~47%~~] 49% above the landed case cost to the department if:

(i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up [~~30%~~] 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53A-19-201.

(5) This section does not prohibit the department from selling discontinued items at a discount.

(6) (a) The department shall collect the markup and remit the markup collected by the department under this section:

(i) to the State Tax Commission monthly on or before the last day of the month immediately following the last day of the previous month; and

(ii) using a form prescribed by the State Tax Commission.

(b) For liquor provided to a package agency on consignment, the department shall remit the markup to the State Tax Commission for the month during which the liquor is provided to the package agency regardless of when the package agency pays the department for the liquor provided to the package agency.

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(c) The State Tax Commission shall deposit revenues remitted to it under Subsection (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

(d) The assessment, collection, and refund of a markup under this section shall be in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(e) The department, if it fails to comply with this Subsection (6), is subject to penalties as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

(f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

Section 18. Section **32B-2-306** is amended to read:

**32B-2-306. Underage drinking prevention media and education campaign -- School-based underage drinking prevention program.**

(1) As used in this section:

(a) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section 63M-7-301.

(b) "Grade 10 school-based underage drinking prevention program" means a school-based underage drinking prevention program that also increases awareness of the dangers of driving under the influence of alcohol.

(c) "LEA" means the same as that term is defined in Section 53A-1-401.

~~(b)~~ (d) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(e) "School-based underage drinking prevention program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcoholic product;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) (a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

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(3) The department shall deposit 0.6% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory council shall:

(a) provide ongoing oversight of a media and education campaign funded under this section;

(b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

(e) approve plans submitted by the department in accordance with Subsection (5).

(5) (a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council.

(b) The department shall:

(i) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;

(ii) upon approval of the plan by the advisory council, conduct the media and education campaign in accordance with the guidelines made by the advisory council; and

(iii) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

(6) (a) The department shall develop or, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the department shall contract with, a person to provide a school-based

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underage drinking prevention program and a grade 10 school-based underage drinking prevention program.

(b) Each year, the department or the contracted provider shall present:

(i) the school-based underage drinking prevention program to students in grade eight at each LEA; and

(ii) the grade 10 school-based underage drinking prevention program to students in grade 10 at each LEA.

Section 19. Section **32B-3-102** is amended to read:

### **32B-3-102. Definitions.**

As used in this chapter[, "final"]:

(1) "Aggravating circumstances" means:

(a) prior warnings about compliance problems;

(b) a prior violation history;

(c) a lack of written policies governing employee conduct;

(d) multiple violations during the course of an investigation;

(e) efforts to conceal a violation;

(f) an intentional violation;

(g) the violation involved more than one patron or employee; or

(h) a violation that results in injury or death.

(2) "Final adjudication" means an adjudication for which a final judgment or order is issued that:

[(+)] (a) is not appealed, and the time to appeal the judgment has expired; or

[(2)] (b) is appealed, and is affirmed, in whole or in part, on appeal.

(3) "Mitigating circumstances" means:

(a) no prior violation history for the licensee or permittee;

(b) no prior violation history for the individual who committed the violation; or

(c) extraordinary cooperation with the investigation of the violation that demonstrates that the licensee or permittee and the individual who committed the violation accept responsibility for the violation.

Section 20. Section **32B-3-205** is amended to read:

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

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

(a) suspend or revoke the person's license, permit, or certificate of approval;

(b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;

(c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or

(d) take a combination of actions described in this Subsection (1).

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

(i) a single notice of agency action; or

(ii) a single action against a package agency.

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

(c) When a presiding officer imposes a fine, the presiding officer shall consider any aggravating circumstances or mitigating circumstances in deciding where within the applicable range to set the fine.

(3) The commission shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

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

(i) during the suspension; and

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

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

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

(ii) include the dates of the suspension period.

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

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

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

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

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

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

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

(ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.

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

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

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

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

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



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- (a) suspension or revocation of the certificate of approval; and
- (b) imposition of a fine.

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

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

Section 21. Section **32B-4-410** is amended to read:

### **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

- (a) a tavern; or
  - (b) a [~~social club~~] bar licensee, except to the extent authorized by Section 32B-6-406.1.
- (2) A minor who violates this section is guilty of a class C misdemeanor.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

- (i) order the minor to complete a screening as defined in Section 41-6a-501;
- (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
- (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

- (i) order the minor to complete a screening as defined in Section 41-6a-501;
- (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
- (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is

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found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, Section 78A-6-606 applies to the violation.

(6) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(7) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 22. Section **32B-4-415** is amended to read:

**32B-4-415. Unlawful bringing onto premises for consumption.**

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(1) Except as provided in Subsection (4), a person may not bring an alcoholic product for on-premise consumption onto the premises of:

- (a) a retail licensee or person required to be licensed under this title as a retail licensee;
- (b) an establishment that conducts a business similar to a retail licensee;
- (c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;
- (d) an establishment open to the general public; or
- (e) the capitol hill complex.

(2) Except as provided in Subsection (4), the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

- (a) a retail licensee or a person required to be licensed under this title as a retail licensee;
- (b) an establishment that conducts a business similar to a retail licensee;
- (c) a single event permittee or temporary beer event permittee;
- (d) an establishment open to the general public;
- (e) the State Capitol Preservation Board created in Section 63C-9-201; or
- (f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

- (a) a location from which the passenger departs in a private vehicle; or
- (b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

- (i) a full-service restaurant licensee;
- (ii) a limited restaurant licensee;
- (iii) a [~~club~~] bar establishment licensee; or
- (iv) a person operating under a resort spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

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- (i) the travel of the limousine begins and ends at:
  - (A) the residence of the passenger;
  - (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
  - (C) the temporary domicile of the passenger;
- (ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and
- (iii) the limousine is not located on the capitol hill complex.
- (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:
  - (i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or
  - (B) if the travel of the chartered bus begins and ends at:
    - (I) the residence of the passenger;
    - (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
    - (III) the temporary domicile of the passenger;
  - (ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and
  - (iii) if the chartered bus is not located on the capitol hill complex.
- (5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.
- (6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.
- (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:
  - (a) the boundary of a resort building or boundary of a hotel in an area that is open to the public; or
  - (b) except as provided in Subsection (4), a sublicense premises.

Section 23. Section **32B-4-501** is amended to read:

**32B-4-501. Operating without a license or permit.**

- (1) A person may not operate the following businesses without first obtaining a license under this title if the business allows a person to purchase or consume an alcoholic product on

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the premises of the business:

- (a) a restaurant;
- (b) an airport lounge;
- (c) a business operated in the same manner as a [~~club~~] bar establishment licensee;
- (d) a resort;
- (e) a business operated to sell, offer for sale, or furnish beer for on-premise

consumption;

- (f) a business operated as an on-premise banquet licensee;
- (g) a hotel; or
- (h) a business similar to one listed in Subsections (1)(a) through (g).

(2) A person conducting an event that is open to the general public may not directly or indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event without first obtaining an event permit under this title.

(3) A person conducting a private event may not directly or indirectly sell or offer for sale an alcoholic product to a person attending the private event without first obtaining an event permit under this title.

(4) A person may not operate the following businesses in this state without first obtaining a license under this title:

- (a) a winery manufacturer;
- (b) a distillery manufacturer;
- (c) a brewery manufacturer;
- (d) a local industry representative of:
  - (i) a manufacturer of an alcoholic product;
  - (ii) a supplier of an alcoholic product; or
  - (iii) an importer of an alcoholic product;
- (e) a liquor warehouse; or
- (f) a beer wholesaler.

(5) A person may not operate a public conveyance in this state without first obtaining a public service permit under this title if that public conveyance allows a person to purchase or consume an alcoholic product:

- (a) on the public conveyance; or

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(b) on the premises of a hospitality room located within a depot, terminal, or similar facility at which a service is provided to a patron of the public conveyance.

Section 24. Section **32B-5-201** is amended to read:

### **32B-5-201. Application requirements for retail license.**

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority;

(e) a copy of the person's current business license;

(f) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee is carrying dramshop insurance coverage of at least

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\$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the retail licensee;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; ~~and~~

(m) a responsible alcohol service plan; and

~~(m)~~ (n) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail License Act, the commission may not issue a retail license to a person if the licensed premises does not meet the proximity requirements of Section 32B-1-202.

Section 25. Section **32B-5-202** is amended to read:

### **32B-5-202. Renewal requirements.**

(1) A retail license expires each year on the day specified in the relevant part under Chapter 6, Specific Retail License Act, for that type of retail license.

(2) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed, submit:

(a) a completed renewal application that includes a responsible alcohol service plan to the department in a form prescribed by the department; and

(b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the date the existing retail license expires.

Section 26. Section **32B-5-207** is enacted to read:

### **32B-5-207. Multiple retail licenses on same premises.**

(1) (a) (i) The commission may not issue and one or more licensees may not hold more than one type of retail license for the same room.

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

(b) Notwithstanding Subsection (1)(a), the commission may issue and one or more licensees may hold more than one type of retail license for the same room if:

(i) the applicant or licensee satisfies the requirements for each retail license;

(ii) the types of retail licenses issued or held are two or more of the following:

(A) a restaurant license;

(B) an on-premise beer retailer license that is not a tavern; and

~~(B)~~(C) an on-premise banquet license or a reception center license; and

(iii) the retail licenses do not operate at the same time on the same day.

(2) When one or more licensees hold more than one type of retail license for the same room under Subsection (1)(b), the one or more licensees shall post in a conspicuous location at the entrance of the room a sign that:

(a) measures 8-1/2 inches by 11 inches; and

(b) states whether the premises is currently operating as:

(i) a restaurant;

(ii) an on-premise beer retailer that is not a tavern; or

~~(ii)~~(iii) a banquet or a reception center.

(3) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail license for the same room in violation of Subsection (1), the one or more licensees may operate under the different types of retail licenses through June 30, 2018.

(b) A licensee may not operate in violation of Subsection (1) on or after July 1, 2018.

(c) Before July 1, 2018, each licensee described in Subsection (3)(a) shall notify the commission of each retail license that the licensee will surrender effective July 1, 2018, to comply with the provisions of Subsection (1).

(d) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a retail license under this Subsection (3).

Section 27. Section **32B-5-307** is amended to read:

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



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

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

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

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

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

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

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

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

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product.

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

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

(i) a person may not carry from a licensed premises of a retail licensee a sealed container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail licensee.

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

(i) permitted by the retail licensee; and

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

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

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

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Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased [in] at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

Section 28. Section **32B-5-402** is amended to read:

### **32B-5-402. Definitions.**

[Reserved]

As used in this part:

(1) "Off-premise retail manager" means an individual who:

(a) manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act; or

(b) supervises the sale of beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) "Off-premise retail staff" does not include an off-premise retail manager.

(3) "Retail manager" means an individual who:

(a) manages operations at a premises that is licensed under this chapter; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under this chapter.

~~{ (4) "Retail owner" means:~~

~~—— (a) for an individual or sole proprietorship that is licensed under this chapter, the individual or sole proprietor; or~~

~~—— (b) for a partnership, corporation, or limited liability company that is licensed under this chapter, an appointed representative who is:~~

~~—— (i) a partner;~~

~~—— (ii) a managing agent;~~

~~—— (iii) a manager;~~

~~—— (iv) an officer;~~

~~—— (v) a director;~~

~~—— (vi) a stockholder who holds at least 20% of the total issued and outstanding stocks of~~

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~~the corporation; or~~

~~(vii) a member who owns at least a 20% interest in the limited liability company.~~

† ~~(5)4~~ (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under this chapter.

(b) "Retail staff" does not include a retail manager ~~or retail owner~~.

Section 29. Section **32B-5-403** is amended to read:

### **32B-5-403. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.**

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals~~[, as defined in Section 62A-15-401,]~~ fail to complete an alcohol training and education seminar:

~~[(a) an individual who manages operations at the licensed premises for consumption on the licensed premises;]~~

~~[(b) an individual who supervises the furnishing of an alcoholic product to a patron for consumption on the licensed premises; or]~~

~~[(c) an individual who serves an alcoholic product to a patron for consumption on the licensed premises.]~~

(a) a retail manager; or

(b) retail staff.

(2) A city, town, metro township, or county in which a retail licensee conducts ~~[its]~~ business may suspend, revoke, or not renew the business license of the retail licensee if ~~[an individual described in Subsection (1)]~~ a retail manager or retail staff fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar~~[, an individual who]~~:

~~[(a) directly supervises the sale of beer to a patron for consumption off the premises of the off-premise beer retailer; or]~~

~~[(b) sells beer to a patron for consumption off the premises of the off-premise beer retailer.]~~

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(a) an off-premise retail manager; or

(b) off-premise retail staff.

Section 30. Section **32B-5-404** is amended to read:

### **32B-5-404. Alcohol training and education for off-premise consumption.**

(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b)~~[, an individual who]~~:

~~[(i) directly supervises the sale of beer to a patron for consumption off the premises of the off-premise beer retailer; or]~~

~~[(ii) sells beer to a patron for consumption off the premises of the off-premise beer retailer.]~~

(i) an off-premise retail manager; or

(ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar within 30 days of the day on which the individual becomes staff of an off-premise beer retailer.

(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.

(2) In accordance with Section 32B-5-403, a local authority may immediately suspend the license of an off-premise beer retailer that allows ~~[staff to directly supervise the sale of beer or to sell beer to a patron]~~ an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).

Section 31. Section **32B-5-405** is enacted to read:

### **32B-5-405. Department training programs.**

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers and retail owners that addresses:

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- (i) the statutes and rules that govern alcohol sales and consumption in the state;
- (ii) the requirements for operating as a retail licensee;
- (iii) using compliance assistance from the department; and
- (iv) any other topic the department determines beneficial to a retail manager or retail

owner;~~†~~

~~— (b) a training program for off-premise retail managers that addresses:~~

~~— (i) the statutes and rules that govern sales at an off-premise beer retailer;~~

~~— (ii) the requirements for operating as an off-premise beer retailer;~~

~~— (iii) using compliance assistance from the department;† and~~

~~(†iv) any other topic the department determines beneficial to an off-premise retail~~

manager; and

~~— (c)†b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:~~

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail

manager.

(†2)3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

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(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(~~3~~4) (a) Except as provided in Subsection (~~4~~5), each retail manager ~~and each retail owner~~ shall:

(i) complete the training ~~program~~ described in Subsection (1)(a) ~~within 30 days after~~ no later than the ~~day on which~~ earlier of:

(A) 30 days after the day on which the retail manager is hired; or

(B) before the day on which the retail ~~owner's business~~ licensee obtains a retail license under this chapter; and

(ii) retake the training program described in Subsection (1)(a) once every three years.

(b) Except as provided in Subsection (~~4~~5), each off-premise retail manager shall:

(i) complete the training ~~program~~ described in Subsection (~~1~~)(~~b~~2) ~~within~~ no later than the earlier of:

(A) 30 days after the day on which the off-premise retail manager is hired; or

(B) before the day on which the off-premise beer retailer obtains an off-premise beer retailer state license; and

(ii) retake the training program described in Subsection (~~1~~)(~~b~~2) once every three years.

(c) (i) If the commission finds that an individual employed by a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time while employed by the same retail licensee, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(~~c~~b).

(ii) If the commission finds that an individual employed by an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time while employed by the same off-premise beer retailer, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(~~c~~b).

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~~(4)5~~ (a) For a person who holds a retail license ~~for an off-premise beer retailer license on May 9~~ on January 1, 2017.

~~(a)~~ 2018, each retail manager ~~and each retail owner~~ shall complete the training program described in Subsection (1)(a) for the first time before the day on which the licensee renews the licensee's license in 2018 ~~and~~.

(b) For a person who holds an off-premise beer retailer state license on January 1, 2019, each off-premise retail manager shall complete the training described in Subsection ~~(1)(b)2~~ for the first time before the day on which the licensee renews the licensee's off-premise beer retailer state license in 2019.

~~(5)6~~ If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, metro township, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 32. Section **32B-5-406** is enacted to read:

### **32B-5-406. Tracking certain enforcement actions.**

(1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee commits, the commission shall:

(a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who committed the violation;

(ii) the name of the retail licensee; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.

(2) (a) The Department of Public Safety shall development and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public

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Safety receives in accordance with Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist the commission in assessing penalties under this title; and

(ii) inform a retail licensee of an individual who has a violation history in the system.

(3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual was last found to have violated a provision of this title related to the sale of an alcoholic product to a minor.

Section 33. Section **32B-6-202** is amended to read:

### **32B-6-202. Definitions.**

As used in this part:

(1) (a) "Dining area" means an area in the licensed premises of a full-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) "Dining area" does not include a dispensing area.

(2) (a) "Dispensing area" means an area in the licensed premises of a full-service restaurant licensee where a dispensing structure is located and that:

(~~fa~~i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(~~ii~~) except as provided in Subsection (2)(b)~~fj~~, measures at least 10 feet from any area where alcoholic product is dispensed to the dining area and any waiting area, measured from the point of the area where alcoholic product is dispensed that is closest to the dining area or waiting area; or

(~~fc~~iii) is physically separated from the dining area and any waiting area by a permanent physical structure that measures:

(~~ff~~A) at least 42 inches high; and

(~~fff~~B) at least 72 inches from the outer edge of the barrier to the nearest edge of the dispensing structure.

(b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that



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is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

~~(1)~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a full-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

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

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in

Subsection ~~(1)~~ (3)(a)(i)(B); or

(II) if the partition as described in Subsection ~~(1)~~ (3)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;

(ii) is not operational as of May 12, 2009, if:

(A) a person applying for a full-service restaurant license:

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

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued the full-service restaurant license by no later than December 31, 2009;

and

(B) once constructed, the licensed premises has a bar structure described in Subsection ~~(1)~~ (3)(a)(i);

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

(iv) is not operational as of May 12, 2009, if:

(A) a person applying for a full-service restaurant license:

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

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued a full-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure with no patron seating.

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(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection ~~[(+)]~~ (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(c) Subject to Subsection ~~[(+)]~~ (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

~~[(2)]~~ (4) "Seating grandfathered bar structure" means:

(a) a grandfathered bar structure described in Subsection ~~[(+)]~~ (3)(a)(i) or (ii); or

(b) a bar structure grandfathered under Section 32B-6-409.

(5) "Waiting area" includes a lobby.

Section 34. Section **32B-6-204** is amended to read:

### **32B-6-204. Specific licensing requirements for full-service restaurant license.**

(1) To obtain a full-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

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

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

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

(b) The initial license fee for a full-service restaurant license is \$2,200.

(c) The renewal fee for a full-service restaurant license is ~~[in the following amount:]~~ \$1,650.

<del>[Gross Cost of Liquor in Previous License Year for the Licensee</del>	Renewal Fee
- <del>under \$5,000</del>	\$935
- <del>equals or exceeds \$5,000 but less than \$10,000</del>	\$1,155
- <del>equals or exceeds \$10,000 but less than \$25,000</del>	\$1,650
- <del>equals or exceeds \$25,000</del>	\$1,925]

(4) The bond amount required for a full-service restaurant license is the penal sum of \$10,000.

Section 35. Section **32B-6-205** is amended to read:

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### **32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018 or July 1, 2022.**

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

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

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

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

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

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

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

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

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

- (i) begins at midnight; and
- (ii) ends at 11:29 a.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer, except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before

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11:30 a.m. on any day.

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

- (a) mix for an alcoholic product; or
- (b) a service charge.

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

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

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

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

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

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

- (a) at:
  - (i) the patron's table;
  - (ii) a counter; or
  - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

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

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

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

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

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

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

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

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

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

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

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

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

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

(iii) an area that is:

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

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

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

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

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

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(A) immediately before the alcoholic product is dispensed it is in an unopened container; (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and (C) once opened, the container is stored in an area described in Subsection (12)(a); and

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

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

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

(14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

(15) Except as provided in Subsection 32B-6-205.2(~~17~~18) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 36. Section **32B-6-205.2** is enacted to read:

**32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018 or July 1, 2022.**

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

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

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant

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licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

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

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each alcoholic product ordered or consumed.

(5) ~~{An}~~ **A full-service restaurant licensee may not make an** individual's willingness to serve an alcoholic product ~~{ may not be made }~~ a condition of employment with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

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

(a) mix for an alcoholic product; or

(b) a service charge.

(8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after:

(i) the patron to whom the full-service restaurant licensee sells, offers for sale, or

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furnishes the alcoholic product is seated at:

- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure ~~that is~~ located in a dispensing area; and
- (ii) the full-service restaurant licensee confirms that the patron ~~has the intent~~ intends

to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) ~~except as provided in Subsection (8)(b),~~ consume the food at the same location

where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is seated at a table, counter, or dispensing structure located in a dispensing area; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's drink before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's drink to the patron's seat in the dining area.

(iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

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

(9) A patron may consume an alcoholic product only if the patron is seated at:

- (a) a table that is located in a dining area or dispensing area;
- (b) a counter that is located in a dining area or dispensing area; or
- (c) a dispensing structure located in a dispensing area.

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



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

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the full-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

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

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

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

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area; or

(ii) an area that is:

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

(B) apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (13)(a).

(14) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

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(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(~~14~~15) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(~~15~~16) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(~~16~~17) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

(~~17~~18) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017;

and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

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(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (~~(17)~~18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 37. Section **32B-6-205.3** is enacted to read:

### **32B-6-205.3. Transition process for full-service restaurant licensees.**

(1) For a full-service restaurant license issued on or after July 1, 2017, the full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2.

(2) For a full-service restaurant license issued before July 1, 2017, before the full-service restaurant licensee changes the full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a full-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-205.2 on or before July 1, 2018.

(b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a full-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a full-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the full-service restaurant licensee remodels, as defined by

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commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the full-service restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 38. Section **32B-6-302** is amended to read:

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

As used in this part:

(1) (a) "Dining area" means an area in the licensed premises of a limited-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) "Dining area" does not include a dispensing area.

(2) (a) "Dispensing area" means an area in the licensed premises of a limited-service restaurant licensee where a dispensing structure is located and that:

(~~f~~i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(ii) ~~except as provided in Subsection (2)(b)~~, measures at least 10 feet from any area where alcoholic product is dispensed to the dining area and any waiting area, measured from the point of the area where alcoholic product is dispensed that is closest to the dining area or waiting area; or

(~~f~~iii) is physically separated from the dining area and any waiting area by a permanent physical structure that measures:

(~~f~~A) at least 42 inches high; and

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~~(iii)~~(B) at least 72 inches from the outer edge of the barrier to the nearest edge of the dispensing structure.

(b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

~~(+)~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a limited-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

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

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in

Subsection ~~(+)~~ (3)(a)(i)(B); or

(II) if the partition as described in Subsection ~~(+)~~ (3)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;

(ii) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

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

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued the limited-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure described in Subsection ~~(+)~~ (3)(a)(i);

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

(iv) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

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

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

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defined by rule made by the commission; and

(III) is issued a limited-service restaurant license by no later than December 31, 2009;

and

(B) once constructed, the licensed premises has a bar structure with no patron seating.

(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection ~~[(1)]~~ (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(c) Subject to Subsection ~~[(1)]~~ (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

~~[(2)]~~ (4) "Seating grandfathered bar structure" means:

(a) a grandfathered bar structure described in Subsection ~~[(1)]~~ (3)(a)(i) or (ii); or

(b) a bar structure grandfathered under Section 32B-6-409.

(5) "Waiting area" includes a lobby.

~~[(3)]~~ (6) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:

(a) sparkling and carbonated wine;

(b) wine made from condensed grape must;

(c) wine made from other agricultural products than the juice of sound, ripe grapes;

(d) imitation wine;

(e) compounds sold as wine;

(f) vermouth;

(g) cider;

(h) perry; and

(i) sake.

Section 39. Section **32B-6-305** is amended to read:

**32B-6-305. Specific operational requirements for a limited-service restaurant license -- Before July 1, 2018 or July 1, 2022.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant

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licensee shall comply with this section.

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

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

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

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

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

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

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

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

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

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

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

- (i) begins at midnight; and
- (ii) ends at 11:29 a.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer, except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer

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before 11:30 a.m. on any day.

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

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

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

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

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

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

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a seating grandfathered bar structure; and

(b) where food is served.

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

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

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

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

(i) sit; or

(ii) consume food or beverages.

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



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employed by a limited-service restaurant licensee:

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

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

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

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

(i) a grandfathered bar structure;

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

(iii) an area that is:

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

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

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

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

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

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

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

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

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

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

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

(14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

(15) Except as provided in Subsection 32B-6-305.2(~~17~~18) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.

Section 40. Section **32B-6-305.2** is enacted to read:

**32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018 or July 1, 2022.**

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

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

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

(2) In addition to complying with Subsection 32B-5-301(3), a limited-service restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

- (a) measures at least 8-1/2 inches long and 11 inches wide; and

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(b) clearly states that the limited-service restaurant licensee is a restaurant and not a bar.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

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

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each alcoholic product ordered or consumed.

(5) ~~†An†~~ ~~A limited-service restaurant licensee may not make an~~ individual's willingness to serve an alcoholic product ~~†may not be made†~~ a condition of employment with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish ~~†liquor†~~ wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A limited-service restaurant licensee shall maintain at least 70% of the limited-service restaurant licensee's total restaurant business from the sale of food, which does not include ~~†~~:

~~— (a) mix for an alcoholic product; or~~

~~— (b) † a service charge.~~

(8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after:

(i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or furnishes the alcoholic product is seated at:

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- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure ~~that is~~ located in a dispensing area; and
- (ii) the limited-service restaurant licensee confirms that the patron ~~has the intent~~ intends to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) ~~except as provided in Subsection (8)(b),~~ consume the food at the same location where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is seated at a table, counter, or dispensing structure located in a dispensing area; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's drink before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's drink to the patron's seat in the dining area.

(iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

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

(9) A patron may consume an alcoholic product only if the patron is seated at:

- (a) a table that is located in a dining area or a dispensing area;
- (b) a counter that is located in a dining area or a dispensing area; or
- (c) a dispensing structure located in a dispensing area.

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

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

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patron:

‡ ~~(c)~~(b) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the limited-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

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

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area; or

(ii) an area that is:

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

(B) apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the limited-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (13)(a).

(14) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a

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dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~(14)~~15 A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

~~(15)~~16 A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of

~~liquor~~ wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~(16)~~17 (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

~~(17)~~18 (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of

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this section before the latest applicable date described in Subsection (~~(17)~~18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-305.

Section 41. Section **32B-6-305.3** is enacted to read:

### **32B-6-305.3. Transition process for limited-service restaurant licensees.**

(1) For a limited-service restaurant license issued on or after July 1, 2017, the limited-service restaurant licensee shall comply with the provisions of Section 32B-6-305.2.

(2) For a limited-service restaurant license issued before July 1, 2017, before the limited-service restaurant licensee changes the limited-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-305.2, the limited-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a limited-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-305.2 on or before July 1, 2018.

(b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a limited-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-305.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the limited-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the limited-service restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 42. Section **32B-6-401** is amended to read:

### **Part 4. Bar Establishment License**

#### **32B-6-401. Title.**

This part is known as "[~~Club~~] Bar Establishment License."

Section 43. Section **32B-6-403** is amended to read:

#### **32B-6-403. Commission's power to issue bar establishment license.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a [~~club~~] bar establishment licensee, the person shall first obtain a [~~club~~] bar establishment license from the commission in accordance with this part.

(2) The commission may issue a [~~club~~] bar establishment license to establish [~~club~~] bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a [~~club~~] bar establishment licensee.

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

(a) (i) [~~The~~] before July 1, 2018, the commission may not issue a total number of [~~club~~] bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by 7,850[-]; and

(ii) beginning on July 1, 2018, the commission may not issue a total number of bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by 10,538;



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(b) the commission may issue a seasonal [~~club~~] bar establishment license in accordance with Section 32B-5-206 to:

- (i) a dining club licensee; or
- (ii) a [~~social club~~] bar licensee[-];

(c) (i) if the location, design, and construction of a hotel may require more than one dining club license or [~~social club~~] bar license location within the hotel to serve the public convenience, the commission may authorize as many as three [~~club~~] bar establishment license locations within the hotel under one [~~club~~] bar establishment license if:

- (A) the hotel has a minimum of 150 guest rooms;
- (B) all locations under the [~~club~~] bar establishment license are:
  - (I) within the same hotel; and
  - (II) on premises that are managed or operated, and owned or leased, by the [~~club~~] bar establishment licensee; and

(C) the locations under the [~~club~~] bar establishment license operate under the same type of [~~club~~] bar establishment license[-]; and

(ii) a facility other than a hotel shall have a separate [~~club~~] bar establishment license for each [~~club~~] bar establishment license location where an alcoholic product is sold, offered for sale, or furnished[-];

(d) when a business establishment undergoes a change of ownership, the commission may issue a [~~club~~] bar establishment license to the new owner of the business establishment notwithstanding that there is no [~~club~~] bar establishment license available under Subsection (3)(a) if:

- (i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;
- (ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a [~~club~~] bar establishment license;
- (iii) subject to Subsection (3)(e), the licensed premises of the [~~club~~] bar establishment license issued under this Subsection (3)(d) is at the same location where the [~~club~~] bar establishment license licensed premises was located before the change of ownership; and
- (iv) the person who is the new owner of the business establishment qualifies for the

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[club] bar establishment license, except for there being no [club] bar establishment license available under Subsection (3)(a)[~~7~~]; and

(e) if a [club] bar establishment licensee of a [club] bar establishment license issued under Subsection (3)(d) requests a change of location, the [club] bar establishment licensee may retain the [club] bar establishment license after the change of location only if on the day on which the [club] bar establishment licensee seeks a change of location a [club] bar establishment license is available under Subsection (3)(a).

Section 44. Section **32B-6-404** is amended to read:

### **32B-6-404. Types of bar license.**

(1) To obtain an equity [club] license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:

(i) a golf course; or

(ii) a tennis facility;

(c) have at least 50% of the total membership having:

(i) full voting rights; and

(ii) an equal share of the equity of the [club] entity or a right to redemption or refund at the equal value; and

(d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to:

(i) full voting rights; and

(ii) an equal share of the equity of the [club] entity or a right to redemption or equal value.

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(2) To obtain a fraternal [~~club~~] license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) have no capital stock;

(c) exist solely for:

(i) the benefit of its members and their beneficiaries; and

(ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

(d) have a representative form of government;

(e) have a lodge system in which:

(i) there is a supreme governing body;

(ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

(iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and

(iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and

(f) own or lease a building or space in a building used for lodge activities.

(3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:

(a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:

(i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and

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(ii) for a dining club license that is issued on or before June 30, 2011:

(A) 50% on or before June 30, 2012; and

(B) 60% on and after July 1, 2012; and

(b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:

(i) the square footage and seating capacity of the premises;

(ii) 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;

(iii) whether full meals including appetizers, main courses, and desserts are served;

(iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(v) whether the entertainment provided at the [~~club~~] premises is suitable for minors;

and

(vi) the club management's ability to manage and operate a dining club license including:

(A) management experience;

(B) past dining club licensee or restaurant management experience; and

(C) the type of management scheme used by the dining club license.

(4) To obtain a [~~social-club~~] bar license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).

(5) (a) At the time that the commission issues a [~~club~~] bar establishment license, the commission shall designate the type of [~~club~~] bar establishment license for which the person qualifies.

(b) If requested by a [~~club~~] bar establishment licensee, the commission may approve a change in the type of [~~club~~] bar establishment license in accordance with rules made by the commission.

(6) To the extent not prohibited by law, this part does not prevent a dining club licensee or [~~social-club~~] bar licensee from restricting access to the [~~club's~~] licensed premises on the basis of an individual:

(a) paying a fee; or

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(b) agreeing to being on a list of individuals who have access to the [~~club's~~] licensed premises.

(7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining club license.

(ii) Effective July 1, 2018, the department shall convert each dining club license to a full-service restaurant license or a bar license in accordance with the provisions of this section.

(b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the department no later than May 31, 2018, whether effective July 1, 2018, the person elects to be licensed as a full-service restaurant or a bar.

(B) Effective July 1, 2018, the department shall convert a dining club license to a full-service restaurant license or a bar license in accordance with the dining club licensee's election under Subsection (7)(b)(i)(A).

(ii) If a dining club licensee fails to timely notify the department in accordance with Subsection (7)(b)(i), the dining club license is automatically changed to a full-service restaurant license on July 1, 2018.

(c) Subject to Section 32B-6-404.1, after a dining club license converts to a full-service restaurant license or a bar license, the retail licensee shall operate under the provisions that govern the full-service restaurant license or the bar license, as applicable.

(d) After a dining club license converts to a full-service restaurant license or a bar license in accordance with this Subsection (7):

(i) the full-service restaurant license is not considered in determining the total number of full-service restaurant licenses available under Section 32B-6-203; or

(ii) the bar license is not considered in determining the total number of bar establishment licenses available under Section 32B-6-403.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing a procedure by which a dining club licensee elects and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

Section 45. Section **32B-6-404.1** is enacted to read:

**32B-6-404.1. Transition from dining club license to full-service restaurant license.**

(1) As used in this section:

(a) "Converted full-service restaurant licensee" means a dining club licensee that

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converts to a full-service restaurant licensee on July 1, 2018, in accordance with Subsection 32B-6-404(7).

(b) "Grandfathered bar structure" means the same as that term is defined in Section 32B-6-202.

(2) (a) Except as provided in Subsection (2)(c), beginning on July 1, 2018, a converted full-service restaurant licensee shall operate under the provisions that govern a full-service restaurant licensee that has a grandfathered bar structure.

(b) For purposes of applying the provisions that govern a full-service restaurant licensee with a grandfathered bar structure, a converted full-service licensee's bar structure is considered a grandfathered bar structure.

(c) The provisions of Section 32B-6-205.3 do not apply to a converted full-service restaurant licensee.

(3) (a) A converted full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the converted full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or dining area; or

(iii) the date on which the converted full-service restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) Before a converted full-service restaurant licensee changes the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(c) A converted full-service restaurant licensee that cannot comply with the provisions of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption shall submit an application for approval described in Subsection (3)(b) on or before May 1, 2022.

(4) (a) Notwithstanding any provision to the contrary, a converted full-service

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restaurant licensee shall maintain at least the following percentage of the converted full-service restaurant licensee's total restaurant business from the sale of food:

- (i) beginning July 1, 2018, and ending June 30, 2019, 64%;
- (ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and
- (iv) on and after July 1, 2021, 70%.

(b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's restaurant business from the sale of food does not include:

- (i) mix for an alcoholic product; or
- (ii) a service charge.

Section 46. Section **32B-6-405** is amended to read:

### **32B-6-405. Specific licensing requirements for bar establishment license.**

(1) To obtain a [~~club~~] bar establishment license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

(a) (i) a statement as to whether the person is seeking to qualify as:

- (A) an equity [~~club~~] licensee;
- (B) a fraternal [~~club~~] licensee;
- (C) a dining club licensee; or
- (D) a [~~social club~~] bar licensee; and

(ii) evidence that the person meets the requirements for the type of [~~club~~] bar establishment license for which the person is applying;

(b) evidence that the person operates [~~club~~] a premises where a variety of food is prepared and served in connection with dining accommodations; and

(c) if the person is applying for an equity [~~club~~] license or fraternal [~~club~~] license, a copy of the [~~club's~~] entity's bylaws or house rules, and an amendment to those records.

(2) The commission may refuse to issue a [~~club~~] bar establishment license to a person for an equity [~~club~~] license or fraternal [~~club~~] license if the commission determines that a provision of the person's bylaws or house rules, or amendments to those records is not:

- (a) reasonable; and
- (b) consistent with:
  - (i) the declared nature and purpose of the [~~club~~] bar establishment licensee; and
  - (ii) the purposes of this part.

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(3) (a) A ~~[club]~~ bar establishment license expires on June 30 of each year.

(b) To renew a ~~[club]~~ bar establishment license, a person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.

(4) (a) The nonrefundable application fee for a ~~[club]~~ bar establishment license is \$300.

(b) The initial license fee for a ~~[club]~~ bar establishment license is \$2,750.

(c) The renewal fee for a ~~[club]~~ bar establishment license is \$2,000.

(5) The bond amount required for a ~~[club]~~ bar establishment license is the penal sum of \$10,000.

Section 47. Section **32B-6-406** is amended to read:

### **32B-6-406. Specific operational requirements for a bar establishment license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a ~~[club]~~ bar establishment licensee and staff of the ~~[club]~~ bar establishment licensee shall comply with this section.

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

(i) a ~~[club]~~ bar establishment licensee;

(ii) individual staff of a ~~[club]~~ bar establishment licensee; or

(iii) both a ~~[club]~~ bar establishment licensee and staff of the ~~[club]~~ bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a ~~[club]~~ bar licensee shall display in a ~~[prominent place in the club]~~ conspicuous place at the entrance to the licensed premises a ~~[list of the types and brand names of liquor being furnished through the club licensee's calibrated metered dispensing system.]~~ sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and not a restaurant.

(3) (a) In addition to complying with Section 32B-5-302, a ~~[club]~~ bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the ~~[club]~~ bar establishment licensee, as the department requires.

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



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accordance with this Subsection (3).

(c) The department shall audit the records of a [~~club~~] bar establishment licensee at least once annually.

(4) (a) A [~~club~~] bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

- (i) begins at 1 a.m.; and
- (ii) ends at 9:59 a.m.

(b) A [~~club~~] bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a [~~club~~] bar establishment licensee shall keep its licensed premises open for one hour after the [~~club~~] bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the [~~club~~] bar establishment licensee may finish consuming:

- (A) a single drink containing spirituous liquor;
- (B) a single serving of wine not exceeding five ounces;
- (C) a single serving of heavy beer;
- (D) a single serving of beer not exceeding 26 ounces; or
- (E) a single serving of a flavored malt beverage.

(ii) A [~~club~~] bar establishment licensee is not required to remain open:

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

(5) (a) A minor may not be admitted into, use, or be in:

(i) a lounge or bar area of the premises of:

- (A) an equity [~~club~~] licensee;
- (B) a fraternal [~~club~~] licensee; or
- (C) a dining club licensee; or

(ii) the premises of:

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

(B) a [~~social-club~~] bar licensee, except to the extent provided for under Section

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32B-6-406.1.

(b) Notwithstanding Section 32B-5-308, a [~~club~~] bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity [~~club~~] licensee, fraternal [~~club~~] licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a [~~social club~~] bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a [~~club~~] bar establishment licensee.

(6) A [~~club~~] bar establishment licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the [~~club~~] bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A [~~club~~] bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the [~~club~~] bar establishment licensee including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(9) Subject to Section 32B-5-309, a [~~club~~] bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the [~~club~~] bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the [~~club~~] bar

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establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the ~~[club]~~ bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a ~~[club]~~ bar establishment licensee is an equity ~~[club]~~ licensee or fraternal ~~[club]~~ licensee, the ~~[club]~~ bar establishment licensee shall comply with Section 32B-6-407.

(11) If a ~~[club]~~ bar establishment licensee is a dining club licensee or ~~[social club]~~ bar licensee, the ~~[club]~~ bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A ~~[club]~~ bar establishment licensee shall own or lease premises suitable for the ~~[club]~~ bar establishment licensee's activities.

(b) A ~~[club]~~ bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the ~~[club]~~ bar establishment licensee's operation.

Section 48. Section **32B-6-406.1** is amended to read:

### **32B-6-406.1. Specific operational restrictions related to dance or concert hall.**

(1) A minor who is at least 18 years of age may be admitted into, use, or be on the premises of a dance or concert hall if:

(a) the dance or concert hall is located:

(i) on the licensed premises of a ~~[social club]~~ bar licensee; or

(ii) on the property that immediately adjoins the licensed premises of and is operated by a ~~[social club]~~ bar licensee; and

(b) the ~~[social club]~~ bar licensee holds a permit to operate a dance or concert hall that was issued on or before May 11, 2009:

(i) on the basis of the operational requirements described in Subsection (2); and

(ii) when the ~~[social club]~~ bar licensee was licensed as a class D private club.

(2) A ~~[social club]~~ bar licensee that holds a dance or concert hall permit shall operate in such a way that:

(a) the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for alcoholic product consumption is:

(i) not accessible to a minor;

(ii) clearly defined; and

(iii) separated from the dance or concert hall area by one or more walls, multiple floor levels, or other substantial physical barriers;

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(b) [~~a bar or dispensing~~] a dispensing structure or area where alcoholic product is dispensed is not visible to a minor;

(c) consumption of an alcoholic product may not occur in:

(i) the dance or concert hall area; or

(ii) an area of the [~~social club~~] bar license premises accessible to a minor;

(d) the [~~social club~~] bar licensee maintains sufficient security personnel to prevent the passing of beverages from the [~~social club~~] bar licensee's lounge, [~~bar~~] dispensing structure, or other area for alcoholic product consumption to:

(i) the dance or concert hall area; or

(ii) an area of the [~~social club~~] bar licensee premises accessible to a minor;

(e) there are one or more separate entrances, exits, and restroom facilities from the [~~social club~~] bar licensee's lounge, [~~bar~~] dispensing structure, or other area for alcoholic product consumption than for:

(i) the dance or concert hall area; or

(ii) an area accessible to a minor; and

(f) the [~~social club~~] bar licensee complies with any other requirements imposed by the commission by rule.

(3) (a) A minor under 18 years of age who is accompanied at all times by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (1) if:

(i) the requirements of Subsection (2) are met; and

(ii) signage, product, and dispensing equipment containing recognition of an alcoholic product is not visible to the minor.

(b) A minor under 18 years of age but who is 14 years of age or older who is not accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (1) if:

(i) the requirements of Subsections (2) and (3)(a) are met; and

(ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of the [~~social club~~] bar licensee.

(4) The commission may suspend or revoke a dance or concert permit issued to a [~~social club~~] bar licensee and suspend or revoke the license of the [~~social club~~] bar licensee if:

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- (a) the [~~social club~~] bar licensee fails to comply with the requirements in this section;
  - (b) the [~~social club~~] bar licensee sells, offers for sale, or furnishes an alcoholic product to a minor;
  - (c) the [~~social club~~] bar licensee or a supervisory or managerial level staff of the [~~social club~~] bar licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of an activity that occurs on:
    - (i) the licensed premises; or
    - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the [~~social club~~] bar licensee;
  - (d) there are three or more convictions of patrons of the [~~social club~~] bar licensee under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:
    - (i) the licensed premises; or
    - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the [~~social club~~] bar licensee;
    - (iii) there is more than one conviction:
      - (A) of:
        - (I) the [~~social club~~] bar licensee;
        - (II) staff of the [~~social club~~] bar licensee;
        - (III) an entertainer contracted by the [~~social club~~] bar licensee; or
        - (IV) a patron of the [~~social club~~] bar licensee; and
      - (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that occurs on:
        - (I) the licensed premises; or
        - (II) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the [~~social club~~] bar licensee; or
  - (e) the commission finds acts or conduct contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:
    - (i) the licensed premises; or
    - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the [~~social club~~] bar licensee.
- (5) Nothing in this section prohibits a [~~social club~~] bar licensee from selling, offering

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for sale, or furnishing an alcoholic product in a dance or concert area located on the [~~social club~~] bar licensed premises on days and times when the [~~social club~~] bar licensee does not allow a minor into those areas.

Section 49. Section **32B-6-407** is amended to read:

### **32B-6-407. Specific operational requirements for equity license or fraternal license.**

(1) [~~For purposes of~~] As used in this section [~~only: (a) "Club~~], "equity or fraternal licensee" means an equity [~~club~~] licensee or fraternal [~~club~~] licensee.

[~~(b) "Club licensee" does not include a dining club licensee or social club licensee.~~]

(2) (a) [~~A club~~] An equity or fraternal licensee shall have a governing body that:

(i) consists of three or more members of the [~~club~~] equity or fraternal licensee; and

(ii) holds regular meetings to:

(A) review membership applications; and

(B) conduct other business as required by the bylaws or house rules of the [~~club~~] equity or fraternal licensee.

(b) (i) [~~A club~~] An equity or fraternal licensee shall maintain a minute book that is posted currently by the [~~club~~] equity or fraternal licensee.

(ii) The minute book required by this Subsection (2) shall contain the minutes of a regular or special meeting of the governing body.

(3) [~~A club~~] An equity or fraternal licensee may admit an individual as a member only on written application signed by the person, subject to:

(a) the person paying an application fee; and

(b) investigation, vote, and approval of a quorum of the governing body.

(4) [~~A club~~] An equity or fraternal licensee shall:

(a) record an admission of a member in the official minutes of a regular meeting of the governing body; and

(b) whether approved or disapproved, file an application as a part of the official records of the [~~club~~] equity or fraternal licensee.

(5) The spouse of a member of [~~a club~~] an equity or fraternal licensee has the rights and privileges of the member:

(a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal

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licensee; and

(b) except to the extent restricted by this title.

(6) A minor child of a member of [~~a club~~] an equity or fraternal licensee has the rights and privileges of the member:

(a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal licensee; and

(b) except to the extent restricted by this title.

(7) [~~A club~~] An equity or fraternal licensee shall maintain:

(a) a current and complete membership record showing:

(i) the date of application of a proposed member;

(ii) a member's address;

(iii) the date the governing body approved a member's admission;

(iv) the date initiation fees and dues are assessed and paid; and

(v) the serial number of the membership card issued to a member;

(b) a membership list; and

(c) a current record indicating when a member is removed as a member or resigns.

(8) (a) [~~A club~~] An equity or fraternal licensee shall have bylaws or house rules that include provisions respecting the following:

(i) standards of eligibility for members;

(ii) limitation of members, consistent with the nature and purpose of the [~~club~~] equity or fraternal licensee;

(iii) the period for which dues are paid, and the date upon which the period expires;

(iv) provisions for removing a member from the [~~club~~] equity or fraternal licensee's membership for the nonpayment of dues or other cause;

(v) provisions for guests; and

(vi) application fees and membership dues.

(b) [~~A club~~] An equity or fraternal licensee shall maintain a current copy of the [~~club~~] equity or fraternal licensee's current bylaws and current house rules.

(c) [~~A club~~] An equity or fraternal licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.

(9) [~~A club~~] An equity or fraternal licensee may, in its discretion, allow an individual

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to be admitted to or use the [club] licensed premises as a guest subject to the following conditions:

(a) the individual is allowed to use the [club] equity or fraternal licensee premises only to the extent permitted by the [club] equity or fraternal licensee's bylaws or house rules;

(b) the individual shall be previously authorized by a member of the [club] equity or fraternal licensee who agrees to host the individual as a guest [~~into the club~~];

(c) the individual has only those privileges derived from the individual's host for the duration of the individual's visit to the [club] equity or fraternal licensee premises; and

(d) [~~a club~~] an equity or fraternal licensee or staff of the [club] equity or fraternal licensee may not enter into an agreement or arrangement with a [club] member of the equity or fraternal licensee to indiscriminately host a member of the general public into the [club] equity or fraternal licensee premises as a guest.

(10) Notwithstanding Subsection (9), an individual may be allowed as a guest in [~~a club~~] an equity or fraternal licensed premises without a host if:

(a) (i) the [club] equity or fraternal licensee is an equity [club] licensee; and

(ii) the individual is a member of an equity [club] licensee that has reciprocal guest privileges with the equity [club] licensee for which the individual is a guest;

(b) (i) the [club] equity or fraternal licensee is a fraternal [club] licensee; and

(ii) the individual is a member of the same fraternal organization as the fraternal [club] licensee for which the individual is a guest; or

(c) (i) the [club] equity or fraternal licensee is a fraternal [club] licensee that holds the fraternal [club] license on July 1, 2013;

(ii) the [club] equity or fraternal licensee's bylaws permit guests in the [club] equity or fraternal licensed premises without a host except that a minor may not be admitted as a guest without a host; and

(iii) the [club] equity or fraternal licensee maintains 60% of its total [club] business from the sale of food, not including mix for alcoholic products, or service charges.

(11) Unless the patron is a member or guest, [~~a club~~] an equity or fraternal licensee may not:

(a) sell, offer for sale, or furnish an alcoholic product to the patron; or

(b) allow the patron to be admitted to or use the licensed premises.



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(12) A minor may not be a member, officer, director, or trustee of [~~a club~~] an equity or fraternal licensee.

Section 50. Section **32B-6-408** is amended to read:

### **32B-6-408. Information obtained by investigator.**

(1) Subject to Subsection (2), if an investigator is permitted by another provision of this title to inspect a record of a [~~club~~] bar establishment licensee, in addition to any other rights under this title, the investigator may inspect, have a copy of, or otherwise review any record of the [~~club~~] bar establishment licensee that is a visual recording of the operations of the [~~club~~] bar establishment licensee.

(2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise review a visual recording described in Subsection (1) without probable cause.

Section 51. Section **32B-6-603** is amended to read:

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

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

- (i) a hotel;
- (ii) a resort facility;
- (iii) a sports center; [~~or~~]
- (iv) a convention center[~~;~~]; or
- (v) a performing arts facility.

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

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

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

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(3) Subject to Section 32B-1-201, the commission may not issue a total number of on-premise banquet licenses that at any time exceed the number determined by dividing the population of the state by 28,765.

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

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

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

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

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

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

Section 52. Section **32B-6-605** is amended to read:

### **32B-6-605. Specific operational requirements for on-premise banquet license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

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

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, [~~or~~] convention center, or performing arts facility that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

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(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) A host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

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

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

(9) An on-premise banquet licensee shall maintain at least 50% of its total annual banquet gross receipts from the sale of food, not including:

(a) mix for an alcoholic product; and

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

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

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

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

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

(12) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(13) (a) Room service of an alcoholic product to a guest room of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room.

(b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

Section 53. Section **32B-6-703** is amended to read:

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

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

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

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premises operated as an on-premise beer retailer.

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

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

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

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

(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:

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- (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, 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; or

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

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

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

(B) operate as a tavern.

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

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

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

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~~[(v)]~~ (iv) A contract described in Subsection (2)(e)(i)(A) shall:

(A) allow the beer retailer to include the total gross revenue from operations of the recreational amenity in the beer retailer's total gross receipts for purposes of Subsection (2)(e)(i)(A); and

(B) give the department the authority to audit financial information of the political subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A) are met.

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

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

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

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

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

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

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

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

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

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

Section 54. Section **32B-6-706** is amended to read:

**32B-6-706. Specific operational requirements for on-premise beer retailer license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

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in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) an on-premise beer retailer;
- (ii) individual staff of an on-premise beer retailer; or
- (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

(2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make and maintain the records the department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or sell liquor on its licensed premises.

(4) Beer sold in a sealed container by an on-premise beer retailer may be removed from the on-premise beer retailer premises in the sealed container.

(5) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its licensed premises during a period that:

- (i) begins at 1 a.m.; and
- (ii) ends at 9:59 a.m.

(b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 26 ounces.

(ii) A tavern is not required to remain open:

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

(6) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a tavern.

(7) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases from:

- (A) a beer wholesaler licensee; or
- (B) a small brewer that manufactures the beer.
- (ii) Violation of Subsection (7)(a)(i) is a class A misdemeanor.

(b) (i) If an on-premise beer retailer purchases beer under this Subsection (7) from a



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beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the ~~[off-premise]~~ on-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the ~~[off-premise]~~ on-premise beer retailer as provided in Section 32B-13-301.

(ii) Violation of Subsection (7)(b)(i) is a class B misdemeanor.

(8) A tavern shall comply with Section 32B-1-407.

Section 55. Section **32B-6-902** is amended to read:

### **32B-6-902. Definitions.**

(1) As used in this part:

(a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(ii) "Dining area" does not include a dispensing area.

(b) (i) "Dispensing area" means an area in the licensed premises of a beer-only restaurant licensee where a dispensing structure is located and that:

(~~ii~~) A) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of beer;

(B) except as provided in Subsection (1)(b)(ii) ~~ii~~, measures at least 10 feet from any area where beer is dispensed to the dining area and any waiting area, measured from the point of the area where beer is dispensed that is closest to the dining area or waiting area; or

(~~iii~~) C) is physically separated from the dining area and any waiting area by a permanent physical structure that measures ~~ft~~

~~(A)~~ } at least 42 inches high ~~ft~~, and ~~ft~~

~~(B)~~ } at least 72 inches from the outer edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (2)(a)(i)(B) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

~~[(1)(a) As used in this part, "grandfathered]~~

(c) "Grandfathered bar structure" means a bar structure in a licensed premises of a

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beer-only restaurant licensee that:

(i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August 1, 2011:

(A) is operational;

(B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii); and

(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or

(ii) is a bar structure grandfathered under Section 32B-6-409.

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

(e) "Waiting area" includes a lobby.

(2) Subject to Subsection (1)~~(b)~~(d), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Section 56. Section **32B-6-905** is amended to read:

**32B-6-905. Specific operational requirements for a beer-only restaurant license -- Before July 1, 2018 or July 1, 2022.**

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

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

(i) a beer-only restaurant licensee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) the patron's table;
- (ii) a grandfathered bar structure; or
- (iii) a counter; and

(b) where food is served.

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

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

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is 21 years of age or older may:

- (i) sit;
  - (ii) be furnished a beer; and
  - (iii) consume a beer.
- (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a

beer-only restaurant licensee may not permit a minor to, and a minor may not:

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

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

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

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

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

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

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

(i) a grandfathered bar structure; or

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

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

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

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

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

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

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

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

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described in Subsection (12)(a).

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

(14) Except as provided in Subsection 32B-6-905.1(~~17~~18) and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section 57. Section **32B-6-905.1** is enacted to read:

**32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018 or July 1, 2022.**

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

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

(i) a beer-only restaurant licensee;

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

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

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

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

(i) as a flavoring on a dessert; and

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

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (13)(a).

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

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each alcoholic product ordered or consumed.

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

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

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

(8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer except after:

(i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure **that is** located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron ~~has the intent~~ **intends** to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) **except as provided in Subsection (8)(b),** consume the food at the same location where the patron is seated and sold, offered for sale, or furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is seated at a table, counter, or dispensing structure located in a dispensing area; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining

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area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

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

(9) A patron may consume a beer only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

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

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

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

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

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

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area; or

(ii) an area that is:

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

(B) apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the beer-only restaurant licensee uses a beer that is stored in an area described in

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Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (13)(a).

(14) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(~~14~~15) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(~~15~~16) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once each calendar year.

(~~16~~17) A beer-only restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

(~~17~~18) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017;  
and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.



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(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (~~(17)~~18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 58. Section **32B-6-905.2** is enacted to read:

### **32B-6-905.2. Transition process for beer-only restaurant licensees.**

(1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only restaurant licensee shall comply with the provisions of Section 32B-6-905.1.

(2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only restaurant licensee changes the beer-only restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-901.1, the beer-only restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-901.1 on or before July 1, 2018.

(b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-901.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-901.1 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the beer-only restaurant licensee remodels, as defined by

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commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area;  
or

(iii) the date on which the beer-only restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-901.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 59. Section **32B-7-202** is amended to read:

### **32B-7-202. General operational requirements for off-premise beer retailer.**

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with [~~this section~~] the provisions of this title and **any applicable** rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with ~~{Section 32B-7-501}~~ Chapter 3, Disciplinary Actions and Enforcement Act.

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

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

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

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

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

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

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

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

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

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

(i) display all beer sold by the off-premise beer retailer in ~~[an area that is visibly separate and distinct from the area where nonalcoholic beverages are displayed; and]~~ no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

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

(A) is prominent;

(B) is easily readable by a consumer;

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

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

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

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

(i) a malt cooler; or

(ii) a beverage that may provide energy.

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

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~~[(e)]~~ (d) A violation of this Subsection (5) is an infraction. ~~[(f)]~~

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

- (i) on the front of the staff's clothing;
- (ii) visible above the waist;
- (iii) bearing the staff's:
  - (A) first or last name;
  - (B) initials; or
  - (C) unique identification in letters or numbers; and

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

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

- (i) full name;
- (ii) address; and
- (iii) (A) driver license number; or
- (B) similar identification number.

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

- (i) a peace officer; ~~[(or)]~~
- (ii) a representative of the local authority that issues the off-premise beer retailer

license~~[-];~~ or

(iii) ~~for an off-premise beer retailer state license,~~ a representative of the commission or department.

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

Section 60. Section ~~{32B-7-401}~~ 32B-7-305 is amended to read:

**32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.**

(1) A local authority that pursuant to this part adjudicates an administrative penalty for

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a violation of a law involving the sale of an alcoholic product to a minor, shall:

(a) maintain a record of an adjudicated violation until the record is expunged under Subsection (3):

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who commits the violation;

(ii) the name of the off-premise beer retailer for whom the individual is a staff member at the time of the violation; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to [the Highway Safety Office of] the Department of Public Safety within 30 days of the date on which a violation is adjudicated.

(2) (a) The [Highway Safety Office] Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the violation history information received under Subsection (1).

(b) The [Highway Safety Office] Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist a local authority in assessing administrative penalties under Section 32B-7-303; and

(ii) inform an off-premise beer retailer of an individual who has an administrative violation history under Section 32B-7-303.

(c) The [Highway Safety Office] Department of Public Safety shall maintain a record of violation history information received pursuant to Subsection (1) until the record is expunged under Subsection (3).

(3) (a) A local authority and the [Highway Safety Office] Department of Public Safety shall expunge from the records maintained an administrative penalty imposed under Section 32B-7-303 for purposes of determining future administrative penalties under Section 32B-7-303 if the individual has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.

(b) A local authority shall expunge from the records maintained by the local authority

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an administrative penalty imposed under Section 32B-7-303 against an off-premise beer retailer for purposes of determining future administrative penalties under Section 32B-7-303 if the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the off-premise beer retailer or staff of the off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.

(4) The [Highway Safety Office] Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:

(a) for the actual costs of an alcohol-related compliance check investigation conducted pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection (4)(a);

(c) if the municipal or county law enforcement agency completes and submits to the [Highway Safety Office] Department of Public Safety a report within 90 days of the compliance check investigation described in Subsection (4)(a) in a format required by the [Highway Safety Office] Department of Public Safety; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection (4)(c) until the amount allocated by the [Highway Safety Office] Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.

(5) The [Highway Safety Office] Department of Public Safety shall report to the Utah Substance Abuse Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:

(a) compliance check investigations reimbursed under Subsection (4); and

(b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).

Section 61. Section 32B-7-401 is enacted to read:

### **Part 4. Off-Premise Beer Retailer State License**

**32B-7-401. Commission's power to issue off-premise beer retailer state license.**

(1) ~~{Except}~~ Beginning on July 1, 2018, and except as provided in Subsection (3),

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before a person may purchase, store, sell, or offer for sale beer for consumption off the person's premises, the person shall obtain an off-premise beer retailer state license in accordance with this part.

(2) The commission may issue an off-premise beer retailer state license for the retail sale of beer for consumption off the beer retailer's premises.

(3) (a) A person who operates as an off-premise beer retailer on ~~May 9~~July 1, ~~2017~~2018, shall obtain an off-premise beer retailer state license on or before ~~February 28~~March 1, ~~2018~~2019.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a deadline for each off-premise beer retailer described in Subsection (3)(a) to submit to the department an application for an off-premise beer retailer state license.

(ii) The commission shall act upon each timely application submitted in accordance with this Subsection (3) on or before February 28, ~~2018~~2019.

(c) An off-premise beer retailer described in Subsection (3)(a) may continue to operate without an off-premise beer retailer state license through February 28, ~~2018~~2019.

Section ~~61~~62. Section **32B-7-402** is enacted to read:

### **32B-7-402. Application for off-premise beer retailer state license -- Qualifications.**

To obtain an off-premise beer retailer state license, a person shall submit to the department:

- (1) a written application in a form prescribed by the department;
- (2) a nonrefundable application fee of \$75;
- (3) an initial license fee of \$250 that is refundable if the commission does not issue the off-premise beer retailer state license;
- (4) written consent of the local authority;
- (5) a copy of the person's current business license;
- (6) a floor plan of the premises that outlines the location of each beer display;
- (7) a signed consent form stating the person will permit any authorized representative of the commission or the department or any law enforcement officer to have unrestricted right to enter the licensed premises;
- (8) if the person is an entity, property verification evidencing that the individual who

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signs the application is authorized to sign on behalf of the entity; and

(9) any other information that the commission or department requires.

Section ~~62~~63. Section **32B-7-403** is enacted to read:

### **32B-7-403. Renewal of off-premise beer retailer state license.**

(1) An off-premise beer retailer state license expires on the last day of February each year.

(2) To renew an off-premise beer retailer state license, an off-premise beer retailer state licensee shall, no later than January 31, submit:

(a) a completed renewal application to the department in a form prescribed by the department; and

(b) a renewal fee of \$175.

(3) An off-premise beer retailer state licensee automatically forfeits the off-premise beer retailer state license if the off-premise beer retailer state licensee fails to satisfy the renewal requirements described in this section.

Section ~~63~~64. Section **32B-7-404** is enacted to read:

### **32B-7-404. Duties of commission and department before issuing off-premise beer retailer state license.**

(1) (a) Before the commission issues an off-premise beer retailer state license, the department shall conduct an investigation and may hold one or more public hearings to gather information and make recommendations to the commission regarding whether the commission should issue an off-premise beer retailer state license.

(b) The department shall forward the information the department gathers and the department's recommendations to the commission.

(2) Before the commission issues an off-premise beer retailer state license, the commission shall:

(a) determine that the person filed a complete application and is in compliance with the provisions of this chapter;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the physical characteristics of the premises where the beer is displayed;

and

(d) consider any other factor that the commission considers necessary.



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Section ~~{64}~~65. Section **32B-7-405** is enacted to read:

### **32B-7-405. Notifying department of change of ownership.**

The commission may suspend or revoke an off-premise beer retailer state license if an off-premise beer retailer state licensee does not immediately notify the department of a change in:

- (1) ownership of the licensee's business;
- (2) for a corporate owner, a shareholder holding at least 20% of the total issued and outstanding stock of the corporation; or
- (3) for a limited liability company, a member owning at least 20% of the limited liability company.

~~{~~ ~~Section 65. Section **32B-7-501**, which is renumbered from Section 32B-7-305 is renumbered and amended to read:~~

### **Part 5. Off-Premise Beer Retailer Enforcement**

~~\_\_\_\_\_ [32B-7-305]. \_\_\_\_\_ **32B-7-501. Tracking of enforcement actions -- Costs of enforcement actions.**~~

~~\_\_\_\_\_ (1) [A local authority that pursuant to this part adjudicates an administrative penalty for a violation of a law] For each violation committed by an off-premise beer retailer involving the sale of an alcoholic product to a minor, the commission shall:~~

~~\_\_\_\_\_ (a) maintain a record of [an adjudicated] the violation until the record is expunged under Subsection (3);~~

~~\_\_\_\_\_ (b) include in the record described in Subsection (1)(a):~~

~~\_\_\_\_\_ (i) the name of the individual who [commits] committed the violation;~~

~~\_\_\_\_\_ (ii) the name of the off-premise beer retailer for whom the individual [is] was a staff member at the time of the violation; and~~

~~\_\_\_\_\_ (iii) the date of the adjudication of the violation; and~~

~~\_\_\_\_\_ (c) provide the information described in Subsection (1)(b) to the Highway Safety Office of the Department of Public Safety within 30 days of the date on which a violation is adjudicated.~~

~~\_\_\_\_\_ (2) (a) The [Highway Safety Office] Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the [violation history] information [received under] that the Department of Public Safety receives in accordance with~~

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Subsection (1):

~~—— (b) The [Highway Safety Office] Department of Public Safety shall make the system described in Subsection (2)(a) available to:~~

~~—— [(i) assist a local authority in assessing administrative penalties under Section 32B-7-303; and]~~

~~—— (i) assist the commission in assessing penalties under this title; and~~

~~—— (ii) inform an off-premise beer retailer of an individual who has [an administrative] a violation history [under Section 32B-7-303] in the system.~~

~~—— [(c) The Highway Safety Office shall maintain a record of violation history information received pursuant to Subsection (1) until the record is expunged under Subsection (3).]~~

~~—— (3) [(a) A local authority] The commission and the [Highway Safety Office] Department of Public Safety shall expunge [from the records maintained an administrative penalty imposed under Section 32B-7-303 for purposes of determining future administrative penalties under Section 32B-7-303] each record in the system described in Subsection (2) that relates to an individual if the individual [has not been found in violation of any law] does not violate a provision of this title involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual [is last adjudicated as violating a law] was last found to have violated a provision of this title involving the sale of an alcoholic product to a minor.~~

~~—— [(b) A local authority shall expunge from the records maintained by the local authority an administrative penalty imposed under Section 32B-7-303 against an off-premise beer retailer for purposes of determining future administrative penalties under Section 32B-7-303 if the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the off-premise beer retailer or staff of the off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.]~~

~~—— (4) The [Highway Safety Office] Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:~~

~~—— (a) for the actual costs of an alcohol-related compliance check investigation conducted [pursuant to] in accordance with Section 77-39-101 on the premises of an off-premise beer~~

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retailer;

~~— (b) for administrative costs associated with reporting the compliance check investigation described in Subsection (4)(a);~~

~~— (c) if the municipal or county law enforcement agency completes and submits to the [Highway Safety Office] Department of Public Safety a report within 90 days of the compliance check investigation described in Subsection (4)(a) in a format required by the [Highway Safety Office] Department of Public Safety; and~~

~~— (d) in the order that the municipal or county law enforcement agency submits the report required by Subsection (4)(c) until the amount allocated by the [Highway Safety Office] Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.~~

~~— (5) The [Highway Safety Office] Department of Public Safety shall report to the Utah Substance Abuse Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:~~

~~— (a) compliance check investigations reimbursed under Subsection (4); and~~

~~— (b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).~~

‡ Section 66. Section **32B-8-102** is amended to read:

### **32B-8-102. Definitions.**

As used in this chapter:

(1) "Boundary of a resort building" means the physical boundary of the land reasonably related to a resort building and any structure or improvement to that land as determined by the commission.

(2) "Dwelling" means a portion of a resort building:

(a) owned by one or more individuals;

(b) that is used or designated for use as a residence by one or more persons; and

(c) that may be rented, loaned, leased, or hired out for a period of no longer than 30 consecutive days by a person who uses it for a residence.

(3) "Engaged in the management of the resort" may be defined by the commission by rule.

(4) "Invitee" means an individual who in accordance with Subsection 32B-8-304(11) is

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authorized to use a resort spa by a host who is:

(a) a resident; or

(b) a public customer.

(5) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar Establishment License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and

(f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.

(6) "Public customer" means an individual who holds a customer card in accordance with Subsection 32B-8-304(12).

(7) "Resident" means an individual who:

(a) owns a dwelling located within a resort building; or

(b) rents lodging accommodations for 30 consecutive days or less from:

(i) an owner of a dwelling described in Subsection (7)(a); or

(ii) the resort licensee.

(8) "Resort" means a location:

(a) on which is located one resort building; and

(b) that is affiliated with a ski area that physically touches the boundary of the resort building.

(9) "Resort building" means a building:

(a) that is primarily operated to provide dwellings or lodging accommodations;

(b) that has at least 150 units that consist of a dwelling or lodging accommodations;

(c) that consists of at least 400,000 square feet:

(i) including only the building itself; and

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(ii) not including areas such as above ground surface parking; and  
(d) of which at least 50% of the units described in Subsection (9)(b) consist of dwellings owned by a person other than the resort licensee.

(10) "Resort spa" means a spa, as defined by rule by the commission, that is within the boundary of a resort building.

(11) "Sublicense" means:

- (a) a full-service restaurant sublicense;
- (b) a limited-service restaurant sublicense;
- (c) a ~~club~~ bar establishment sublicense;
- (d) an on-premise banquet sublicense;
- (e) an on-premise beer retailer sublicense; and
- (f) a resort spa sublicense.

(12) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission.

Section 67. Section **32B-8-304** is amended to read:

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

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

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

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

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

- (i) as the department requires; and

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(ii) for a minimum period of three years.

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

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

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

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

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

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

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

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

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

(A) a single drink containing spirituous liquor;

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

(C) a single serving of heavy beer;

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

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

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

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

(B) during an emergency.

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

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

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

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

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

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

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a ~~[bar]~~ dispensing structure.

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

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

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

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

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

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

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

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the resort spa sublicense premises other than:

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

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

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

- (i) a resident; or
- (ii) a public customer as described in Subsection (10);

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

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

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

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

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

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

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

Section 68. Section **32B-8a-302** is amended to read:

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

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

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

(b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the retail license;



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(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

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

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

(2) If the intended transfer of a retail license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:

(a) the name of the transferor;

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

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

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

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

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

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

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

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

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

(vii) consider the nature or type of retail licensee operation of the transferee, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

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(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

(4) ~~[(a)]~~ Except as provided in Subsection ~~[(4)(b)]~~ 32B-1-202(3), the commission may not approve the transfer of a retail license to premises that do not meet the proximity requirements of Section 32B-1-202.

~~[(b) If after a transfer of a retail license the transferee operates the same type of retail license at the same location as did the transferor, the commission may waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the transfer under the same circumstances that the commission may waive or vary the proximity requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a retail license.]~~

Section 69. Section **32B-8b-102** is amended to read:

### **32B-8b-102. Definitions.**

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of the contiguous parcels of real estate owned by the same person on which is located one or more buildings and any structure or improvement to that real estate as determined by the commission.

(2) "Hotel" means one or more buildings that:

(a) constitute a hotel, as defined by the commission;

(b) are owned by the same person or by a person who has a majority interest in and can direct or exercise control over the management or policy of the person who owns any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) provide room service within the boundary of the hotel meeting the requirements of this title;

(e) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(f) have a restaurant or ~~club~~ bar establishment within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 guest rooms.

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(3) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar Establishment License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and

(f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant License.

(4) "Sublicense" means:

(a) a full-service restaurant sublicense;

(b) a limited-service restaurant sublicense;

(c) a [~~club~~] bar establishment sublicense;

(d) an on-premise banquet sublicense;

(e) an on-premise beer retailer sublicense; and

(f) a beer-only restaurant sublicense.

(5) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission, except that sublicense premises may have only one sublicense within a room or an enclosure that is separate from a room.

Section 70. Section **32B-8b-201** is amended to read:

### **32B-8b-201. Commission's power to issue a hotel license.**

(1) Before a person as a hotel under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a hotel license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a hotel license to allow the storage, sale,

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offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel designated in the hotel license if the person operates at least three sublicenses under the hotel license one of which is an on-premise banquet license and one of which is a sublicense for a restaurant or ~~club~~ bar establishment.

(b) A hotel license shall:

(i) consist of:

(A) a general hotel license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the boundary of the hotel and sublicenses.

(c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to the extent otherwise permitted by this title.

(d) The commission may not issue a sublicense that is separate from a hotel license.

(3) (a) The commission may not issue a total number of hotel licenses that at any time totals more than 80.

(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.

(c) If a hotel license issued under this chapter includes a ~~club~~ bar establishment sublicense that before the issuance of the hotel license was a ~~club~~ bar establishment license, the commission shall include the ~~club~~ bar establishment sublicense as one of the ~~club~~ bar establishment licenses in determining if the total number of licenses issued under the provisions applicable to the ~~club~~ bar establishment license exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the ~~club~~ bar establishment license.

(d) A person may not transfer a ~~club~~ bar establishment license under Chapter 8a, Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection (3)(c).

Section 71. Section **53-10-305** is amended to read:

### **53-10-305. Duties of bureau chief.**

The bureau chief, with the consent of the commissioner, shall do the following:

(1) conduct in conjunction with the state boards of education and higher education in

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state schools, colleges, and universities, an educational program concerning alcoholic beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;

(2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a ~~club~~ bar establishment licensee, or a person required to obtain a ~~club~~ bar establishment license, as defined in Section 32B-1-102;

(3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage Control;

(4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and

(5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage Control as may be required or requested.

Section 72. Section **53A-13-102** is amended to read:

**53A-13-102. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- School-based underage drinking prevention program.**

(1) The State Board of Education shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The rules shall require but are not limited to instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, and controlled substances.

(2) At the request of the board, the Division of Substance Abuse and Mental Health shall cooperate with the board in developing programs to provide this instruction.

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(3) The board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of ~~[this section]~~ Subsections (1) and (2).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that require each LEA, as defined in Section 53A-1-401, to:

(a) present the school-based underage drinking prevention program as defined in Section 32B-2-306 each year to students in grade 8;

(b) present the grade 10 school-based underage drinking prevention program as defined in Section 32B-2-306 each year to students in grade 10;

(c) ensure that each student in grade 8 or 10 participates in the school-based underage drinking prevention program or the grade 10 school-based underage drinking prevention program, unless the student's parent or guardian excused the student from participation; and

(d) coordinate with the Department of Alcoholic Beverage Control to set a date each year for the Department of Alcoholic Beverage Control or the provider with whom the Department of Alcoholic Beverage Control contracts to provide the school-based underage drinking prevention program or the grade 10 school-based underage drinking prevention program.

Section 73. Section **62A-15-401** is amended to read:

### **62A-15-401. Alcohol training and education seminar.**

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

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(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to ~~[an individual who, as defined by the division by rule]:~~

~~[(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;]~~

~~[(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;]~~

~~[(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;]~~

(i) a retail manager as defined in Section 32B-5-402;

(ii) retail staff as defined in Section 32B-5-402; and

(iii) an individual who, as defined by division rule:

~~[(iv)] (A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or~~

~~[(v)] (B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.~~

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsections (2)(a)(i) through (iii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired;

or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv) and (v); and

(ii) pay a fee:

(A) to the seminar provider; and

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(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i), (ii), or (iii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iv) or (v).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online



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course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

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(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Control;

(iv) dealing with the problem customer, including ways to terminate sale or service;

and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Control;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

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(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

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(ii) revoke the certification of the seminar provider;  
(iii) require the seminar provider to take corrective action regarding an instructor; or  
(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 74. Section **63I-2-232** is amended to read:

**63I-2-232. Repeal dates -- Title ~~32A~~32B.**

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-102(33)(a)(i)(B), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and ", or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

(3) Subsection 32B-1-102(114)(b), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and ", or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

(4) Subsection 32B-1-604(4) is repealed ~~January~~June 1, 2018.

(5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

(6) Section 32B-6-205 is repealed July 1, 2022.

(7) Subsection 32B-6-205.2(17) is repealed July 1, 2022.

(8) Section 32B-6-205.3 is repealed July 1, 2022.

(9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

(10) Section 32B-6-305 is repealed July 1, 2022.

(11) Subsection 32B-6-305.2(17) is repealed July 1, 2022.

(12) Section 32B-6-305.3 is repealed July 1, 2022.

(13) Section 32B-6-404.1 is repealed July 1, 2022.

(14) Section 32B-6-409 is repealed July 1, 2022.

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1(17) is repealed July 1, 2022.

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(19) Section 32B-6-905.2 is repealed July 1, 2022.

(20) Section 32B-7-303 is repealed March 1, 2019.

(21) Section 32B-7-304 is repealed March 1, 2019.

(~~20~~22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section 75. **Repealer.**

This bill repeals:

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

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

~~{ Section **32B-7-301, Title.**~~

~~— Section **32B-7-302, Definitions.**~~

~~— Section **32B-7-303, Penalties related to sales to minors.**~~

~~— Section **32B-7-304, Hearings.**~~

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