

## HB0456S02 compared with HB0456S01

~~{deleted text}~~ shows text that was in HB0456S01 but was deleted in HB0456S02.

Inserted text shows text that was not in HB0456S01 but was inserted into HB0456S02.

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~~{Representative Brad R. Wilson}~~Senator Jerry W. Stevenson proposes the following substitute bill:

### ALCOHOL AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad R. Wilson**

Senate Sponsor: ~~{~~Jerry W. Stevenson

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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 and modifies defined terms;
- ▶ clarifies the appropriate measurement point for determining proximity to a community location;
- ▶ addresses the standard for demonstrating a previously approved variance for purposes of proximity to a community location;
- ▶ requires electronic age verification of certain individuals who are within 10 feet of a grandfathered bar structure;

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- ▶ clarifies and amends labeling requirements for certain malted beverages;
- ▶ allows the Alcoholic Beverage Control Advisory Board to meet at the chair's discretion;
- ▶ modifies the days on which certain package agencies located at a manufacturing facility may operate;
- ▶ modifies the circumstances under which a retail licensee shall submit a responsible alcohol service plan to the department;
- ▶ addresses expungement of a record related to a violation of a provision of the Alcoholic Beverage Control Act;
- ▶ amends the requirements related to when a retail manager or an off-premise retail manager must complete a department training program;
- ▶ amends the requirements related to voting rights to obtain an equity license;
- ▶ modifies the circumstances under which a person may hold two retail licenses for the same premises or room;
- ▶ addresses the circumstances under which a hotel licensee or a resort licensee may have two sublicenses in the same room;
- ▶ allows a patron to transport beer between two adjacent licensed premises located in a sports ~~facility~~ center with a minimum seating capacity;
- ▶ provides that a restaurant licensee may employ a minor who is ~~at least~~ at least 18 years of age to bus tables;
- ▶ provides an exemption from certain dispensing area requirements for small restaurant licensees;
- ▶ repeals the requirement for restaurant licensees to display a sign stating the restaurant's license type;
- ▶ allows a dining club licensee to convert to a full-service restaurant license or a bar license before July 1, 2018;
- ▶ increases the number of airport lounge licenses the commission may issue;
- ▶ provides that the Department of Alcoholic Beverage Control shall study issues related to the use of banquet catering contracts and report to the Business and Labor Interim Committee;
- ▶ modifies the off-premise beer retailer state license fee for a person who operates an

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off-premise beer retailer on July 1, 2018;

- ▶ extends the time for a business entity to transfer a retail license following a change in ownership;
- ▶ modifies the operational requirements for a hotel license and for a sublicense related to calculating the percentage of gross receipts from the sale of food;
- ▶ addresses the grades in which an LEA may offer the Underage Drinking Prevention Program to students; and
- ▶ makes technical and conforming changes.

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

None

### **Other Special Clauses:**

None

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

AMENDS:

**32B-1-102**, as last amended by Laws of Utah 2017, Chapter 455

**32B-1-202**, as last amended by Laws of Utah 2017, Chapters 455, 471 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 471

**32B-1-407**, as last amended by Laws of Utah 2017, Chapter 455

**32B-1-606**, as last amended by Laws of Utah 2017, Chapter 455

**32B-2-210**, as last amended by Laws of Utah 2017, Chapter 455

**32B-2-605**, as last amended by Laws of Utah 2016, Chapter 80

**32B-3-102**, as last amended by Laws of Utah 2017, Chapter 455

**32B-3-205, as last amended by Laws of Utah 2017, Chapter 455**

**32B-4-415, as last amended by Laws of Utah 2017, Chapter 455**

**32B-5-202**, as last amended by Laws of Utah 2017, Chapter 455

**32B-5-207**, as enacted by Laws of Utah 2017, Chapter 455

**32B-5-307**, as last amended by Laws of Utah 2017, Chapter 455

**32B-5-308**, as last amended by Laws of Utah 2011, Chapter 307

**32B-5-405**, as enacted by Laws of Utah 2017, Chapter 455

**32B-5-406, as enacted by Laws of Utah 2017, Chapter 455**

**32B-6-202**, as last amended by Laws of Utah 2017, Chapter 455

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**32B-6-205**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-205.2**, as enacted by Laws of Utah 2017, Chapter 455  
**32B-6-302**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-305**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-305.2**, as enacted by Laws of Utah 2017, Chapter 455  
**32B-6-403**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-404**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-404.1**, as enacted by Laws of Utah 2017, Chapter 455  
**32B-6-406**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-409**, as enacted by Laws of Utah 2011, Chapter 334  
**32B-6-503**, as last amended by Laws of Utah 2011, Chapter 334  
**32B-6-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334  
**32B-6-902**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-905**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-6-905.1**, as enacted by Laws of Utah 2017, Chapter 455  
**32B-7-202**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-7-401**, as enacted by Laws of Utah 2017, Chapter 455  
**32B-8a-202**, as last amended by Laws of Utah 2016, Chapter 82  
**32B-8a-203**, as last amended by Laws of Utah 2016, Chapter 82  
**32B-8b-102**, as last amended by Laws of Utah 2017, Chapter 455  
**32B-8b-301**, as enacted by Laws of Utah 2016, Chapter 80  
**32B-8b-302**, as enacted by Laws of Utah 2016, Chapter 80  
**53F-9-304**, as renumbered and amended by Laws of Utah 2018, Chapter 2  
**53G-10-406**, as renumbered and amended by Laws of Utah 2018, Chapter 3  
**62A-15-401**, as last amended by Laws of Utah 2017, Chapter 455  
**63I-2-232**, as last amended by Laws of Utah 2017, Chapter 455

### ENACTS:

**32B-6-205.4**, Utah Code Annotated 1953  
**32B-6-305.4**, Utah Code Annotated 1953  
**32B-6-605.1**, Utah Code Annotated 1953  
**32B-6-905.3**, Utah Code Annotated 1953

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

Section 1. 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

(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.

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(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;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;

(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) "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:

- (a) stored; or
- (b) dispensed.

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

(b) " Bar establishment license" includes:

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

(9) " Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(10) (a) Subject to Subsection (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 (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.

(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.

(12) "Beer retailer" means a business that:

(a) 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) is licensed as:

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

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

(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.

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

(a) a light device;

(b) a painting;

(c) a drawing;

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

(15) "Brewer" means a person engaged in manufacturing:

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

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

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

(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.

(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.

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

(21) "Commissioner" means a member of the commission.

(22) "Community location" means:

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



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(e) a public park.

(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.

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

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(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.

(26) (a) "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 dispensing structure.

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

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

(a) an auditor or inspector; and

(b) employed by the department.

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

(30) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

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

(32) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

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

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

(33) (a) Subject to Subsection (33)(b), "dispense" means:

(i) drawing ~~[of]~~ an alcoholic product~~[:]; and~~

~~[(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 (33)(a)(i) on the premises of  
the licensed premises]~~ at the location from which it was drawn 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 (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.

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

(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.

(37) "Educational facility" includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.

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

(39) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

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(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.

(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.

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

(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.

(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.

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

(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;

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(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.

(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.

(48) "Hotel" is as defined by the commission by rule.

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

(50) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(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.

(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

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premises of the department to educate the local industry representative of the quality and characteristics of the product.

(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.

(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 (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.

(55) "Investigator" means an individual who is:

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

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

(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

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

(58) "Licensee" means a person who holds a license.

(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.

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

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(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.

(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.

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

(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.

(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.

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

(66) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or

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otherwise make an alcoholic product for personal use or for sale or distribution to others.

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

(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.

(69) "Minor" means an individual under the age of 21 years.

(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.

(71) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

(72) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer 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.

(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.

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

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(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).

(76) "Opaque" means impenetrable to sight.

(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.

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

(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;

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

(a) Chapter 9, Event Permit Act; or



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(b) Chapter 10, Special Use Permit Act.

(81) "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 (81)(a) through (f); or
  - (ii) a package agent.

(82) "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.

(83) "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.

(84) (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.

(85) (a) "Proof of age" means:

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- (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:
      - (I) under Title 53, Chapter 3, Uniform Driver License Act; or
      - (II) in accordance with the laws of the state in which it is issued;
  - (iv) a military identification card that:
    - (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.

- (86) (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.

- (87) "Public conveyance" means a conveyance that the public or a portion of the public

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has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(88) "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

(88)(a) to a third party for the third party's event.

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

(90) (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;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(91) "Residence" means a person's principal place of abode within Utah.

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

(93) "Resort" means the same as that term is defined in Section 32B-8-102.

(94) "Resort facility" is as defined by the commission by rule.

(95) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(96) "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

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(c) serving alcoholic beverages to minors.

(97) "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~~].

(98) "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 bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(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.

(99) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

(100) (a) "School" means a building used primarily for the general education of minors.

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

(101) "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.

(102) "Serve" means to place an alcoholic product before an individual.

(103) "Sexually oriented entertainer" means a person who while in a state of

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seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
  - (i) a bar licensee; or
  - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (103)(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
  - (iv) a different type of classification.

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

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

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

(107) (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.

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

(109) (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;

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- (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.

(110) "State of nudity" means:

- (a) the appearance of:
  - (i) the nipple or areola of a female human breast;
  - (ii) a human genital;
  - (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.

(111) "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.

(112) (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;

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(ii) a licensee; or

(iii) a permittee.

(113) (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).~~].

(114) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

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

(116) "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.

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

(118) "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.

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

(120) "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;

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(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.

(121) (a) "Wine" means an alcoholic product obtained by the fermentation of 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.

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

Section 2. Section **32B-1-202** is amended to read:

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

(1) As used in this section:

(a) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail 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

(iii) a beer-only restaurant licensee.

(2) (a) The commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community



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location:

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

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

(b) The commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

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

(3) (a) 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, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

~~(a)~~ (i) the outlet or restaurant changes ownership;

~~(b)~~ (ii) the property on which the outlet or restaurant is located changes ownership; or

~~(c)~~ (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or

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restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

- (i) the outlet or restaurant changes ownership;
- (ii) the property on which the outlet or restaurant is located changes ownership; or
- (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (4) apply regardless of when the outlet's or restaurant's license is issued.

(5) 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.

Section 3. 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 bar;
- (c) a tavern;
- (d) a full-service restaurant;
- (e) a limited-service restaurant; or
- (f) a beer-only restaurant.

(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 bar licensee or tavern;
- (b) procures an alcoholic product on the premises of a dining club licensee; ~~or~~
- (c) 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~~[-]; or~~
- (d) on or after July 1, 2018, procures an alcoholic product within 10 feet of a grandfathered bar structure.

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

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

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

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in the state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with:

- (a) Sections 32B-1-604 and 32B-1-605; and
- (b) this section, if the malted beverage is labeled or packaged in a manner that is:
  - (i) similar to a label or packaging used for a nonalcoholic beverage; or
  - (ii) 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 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 front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least three millimeters high:

(i) the statement:

(A) "alcoholic beverage"; or

(B) "contains alcohol"; and

(ii) the alcohol content of the [~~flavored malt~~] malted beverage[;], if the alcohol content is not otherwise provided:

(A) in a serving facts statement on the container; and

(B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

(b) [~~the front of~~] the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high, the statement:

(i) "alcoholic beverage"; or

(ii) "contains alcohol";

(c) a statement required by Subsection (2)(a) or (b) 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) states the alcohol content as a percentage of alcohol by volume or by weight; and

(ii) 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

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the information required by Subsection (2).

(4) To determine whether a 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 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 malted beverage possesses a character and flavor distinctive from a traditional malted beverage;
- (c) whether the 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 malted beverage contains added sweetener or sugar substitutes; or
- (e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 5. 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 eight voting members and one nonvoting member as follows:

- (a) four voting members appointed by the commission:
  - (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 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

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designee who serves as a voting member;

(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

(e) the chair of the commission or the chair's designee from the members of the commission, who 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) 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:

(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

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63A-3-107.

Section 6. Section **32B-2-605** is amended to read:

### **32B-2-605. Operational requirements for package agency.**

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

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(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, liquor may be provided by the department to a package agency for sale on consignment.



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(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the closing; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

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- (i) the dates of closure or cessation of operation;
- (ii) the reason for the closure or cessation of operation; and
- (iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license; [or]

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(D) a dining club license; or

(E) a bar license;

(iii) the restaurant ~~[or]~~, dining club, or bar is located at the manufacturing facility;

(iv) the restaurant ~~[or]~~, dining club, or bar sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant ~~[or]~~, dining club, or bar; or

(B) operates the restaurant ~~[or]~~, dining club, or bar;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant ~~[or]~~, dining club, or bar.

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

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(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;

(B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

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- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

Section 7. Section **32B-3-102** is amended to read:

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

As used in this chapter:

(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
- (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;
- (c) motive for the individual who engaged in or allowed the violation to retaliate

against the licensee or permittee; or

(d) 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 8. 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.

(11) The commission shall expunge each record that relates to an individual's violation of a provision of this title, if the individual does not violate a provision of this title for a period of 36 consecutive months from the day on which the individual's last violation was adjudicated.

Section 9. Section 32B-4-415 is amended to read:

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

- (1) Except as provided in Subsection (4) and Subsection 32B-5-307(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) and Subsection 32B-5-307(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;



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(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 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:

(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

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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 ~~{8}~~10. 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) (a) 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)]~~ (i) a completed renewal application [~~that includes a responsible alcohol service plan to the department~~] in a form prescribed by the department; and

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

(b) A retail licensee shall submit a responsible alcohol service plan as part of the retail licensee's renewal application if, since the retail licensee's most recent application or renewal, the retail licensee:

(i) made substantial changes to the retail licensee's responsible alcohol service plan; or

(ii) violated a provision of this chapter.

(c) The department may audit a retail licensee's responsible alcohol service plan.

(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 ~~{9}~~11. Section **32B-5-207** is amended to read:

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

(1) As used in this section, "sublicense premises" means the same as that term is defined in Sections 32B-8-102 and 32B-8b-102.

~~[(1)(a)(i)]~~ (2)(a) The commission may not issue and one or more licensees may not hold more than one type of retail license for the same ~~[room]~~ premises.

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

(b) Notwithstanding Subsection ~~[(1)]~~ (2)(a), the commission may issue and one or more licensees may hold more than one type of retail license for the same ~~[room]~~ premises 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
  - (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)]~~ (3) When one or more licensees hold more than one type of retail license for the same ~~[room]~~ premises under Subsection ~~[(1)]~~ (2)(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
  - (iii) a banquet or a reception center.

(4)(a) The commission may not issue and one or more licensees may not hold a bar license or a tavern license in the same room as a restaurant license.

(b) For purposes of Subsection (4)(a), two licenses are not considered in the same room if:

(i) each shared permanent wall between the premises licensed as a bar or a tavern and the premises licensed as a restaurant measures at least eight feet high;

(ii) the premises for each license has a separate entryway that does not require a patron to pass through the premises licensed as a bar or a tavern to access the premises licensed as a

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restaurant; and

(iii) if a patron must pass through the premises licensed as a restaurant to access the entryway to the premises licensed as a bar or a tavern, a patron on the premises licensed as a restaurant cannot see a dispensing structure on the premises licensed as a bar or a tavern.

~~[(3)]~~ (5) (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)]~~ (2) or (4), 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)]~~ (2) or (4) on or after July 1, 2018.

(c) Before July 1, 2018, each licensee described in Subsection ~~[(3)]~~ (5)(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)]~~ (2) or (4).

(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)]~~ (5).

(6) (a) The commission may issue more than one type of sublicense to a resort licensed under Chapter 8, Resort License Act, or a hotel licensed under Chapter 8b, Hotel License Act, for the same room if the sublicense premises are clearly delineated by one or more permanent physical structures, such as a wall or other architectural feature, that separate the sublicense premises.

(b) A patron may not transport an alcoholic beverage between two sublicense premises located in the same room in accordance with Subsection (6)(a).

(c) Notwithstanding any provision to the contrary, a minor may momentarily pass through a sublicense premises that is a bar to reach another location where a minor may lawfully be, if there is no practical alternative route to the location.

Section ~~[(10)]~~ 12. Section **32B-5-307** is amended to read:

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

(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.

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(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)~~] Subsections (3), (4), and 32B-4-415(5):

(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)[-]; and

~~[(c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):]~~

(c) (i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor 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 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 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 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.

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(4) A patron may transport beer between the premises of an on-premise banquet license and an on-premise beer retailer license that is not a tavern, and consume the beer on either licensed premises, if the licensed premises are:

(a) immediately adjacent to one another; and

(b) located in a sports ~~facility as defined in Section 32B-6-702~~ center that has a seating capacity of at least 6,500.

Section ~~{11}~~13. Section **32B-5-308** is amended to read:

### **32B-5-308. Requirements on staff or others on premises -- Employing a minor.**

(1) Staff of a retail licensee, while on duty, may not:

(a) consume an alcoholic product; or

(b) be intoxicated.

(2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or dispense an alcoholic product.

(b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions related to the specific type of retail license, a retail licensee may employ a minor who is at least 16 years of age to enter the sale at a cash register or other sales recording device.

(3) A full-service restaurant licensee, limited-service restaurant licensee, or beer-only restaurant licensee may employ a minor who is at least 18 years of age to bus tables, including containers that contain an alcoholic product.

Section ~~{12}~~14. Section **32B-5-405** is amended 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 that addresses:

(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; and

(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:

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(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.

(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;

(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.

(4) (a) Except as provided in Subsection (5), each retail manager shall~~[-(i)]~~ complete the training described in Subsection (1)(a) no later than the earlier of:

~~[(A)]~~ (i) 30 days after the day on which the retail manager is hired; or

~~[(B)]~~ (ii) before the day on which the retail 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 (5), each off-premise retail manager shall~~[-(i)]~~ complete the training described in Subsection (2) no later than the earlier of:

~~[(A)]~~ (i) 30 days after the day on which the off-premise retail manager is hired; or

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~~[(B)] (ii)~~ 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 (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]~~ within ~~{three years}~~ 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(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]~~ within ~~{three years}~~ 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

(5) (a) For a person who holds a retail license on January 1, 2018, each retail manager shall complete the training program described in Subsection (1)(a) for the first time as a condition of renewing the licensee's retail license in 2018.

(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 program described in Subsection (1)(b) for the first time as a condition of renewing the licensee's off-premise beer retailer state license in 2019.

(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 15. Section 32B-5-406 is amended to read:



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### 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 develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public 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]~~ individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section ~~{13}~~16. 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

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restaurant licensee where a dispensing structure is located and that:

(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~~] to the nearest edge of the dispensing structure; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside 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 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 (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:

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(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 (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.

(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.

(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) "Small full-service restaurant licensee" means a converted full-service restaurant licensee as defined in Section 32B-6-404.1 or a full-service restaurant licensee that has a grandfathered bar structure, whose dispensing area includes more than ~~two-thirds~~ 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(a) when measured in accordance with Subsection (2)(a)(ii); and

(b) based on the licensee's floor plan on file with the department on July 1, 2017.

~~(5)~~ (6) "Waiting area" includes a lobby.

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Section ~~{14}~~17. Section 32B-6-205 is amended to read:

**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 ~~[-(a)]~~ 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 ~~[-and]~~.

~~[(b) display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(i) measures at least 8-1/2 inches long and 11 inches wide; and]~~

~~[(ii) 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 (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 sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

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(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 or for a private event, 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 or for a private event, 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 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

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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 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

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(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:

(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~~(+8)~~(16) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section ~~(+5)~~18. Section **32B-6-205.2** is amended 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.

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(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 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)]~~ (2) (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)]~~ (2) shall state the type and amount of each alcoholic product ordered or consumed.

~~[(5)]~~ (3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

~~[(6)]~~ (4) (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 or for a private event, 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 or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7)]~~ (5) A full-service restaurant licensee shall maintain at least 70% of the



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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)]~~ (6) (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]~~ 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 intends to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) except as provided in Subsection ~~[(8)]~~ (6)(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 in a dispensing area and seated at a table, counter, or dispensing structure; 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 alcoholic product 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 alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection ~~[(8)]~~ (6)(b)(i) a single portion of wine is 5 ounces or less.

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(c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (7) 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)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(10)]~~ (8), 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)]~~ (8)(a).

~~[(11)]~~ (9) 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)]~~ (10) (a) Except as provided in Subsection ~~[(12)]~~ (10)(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)]~~ (11) 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;
  - (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

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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; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee;

and

~~[(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)]~~ (b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(13)]~~ (11)(a).

~~[(14)]~~ (12) (a) A full-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 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.

~~[(15)]~~ (13) 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.

~~[(16)]~~ (14) 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.

~~[(17)]~~ (15) (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 restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

~~[(18)]~~ (16) (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.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(18)]~~ (16)(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 ~~[(16)]~~ 19. Section **32B-6-205.4** is enacted to read:

### **32B-6-205.4. Small full-service restaurant licensee -- Exemption.**

(1) Notwithstanding the provisions of Section 32B-6-205 or 32B-6-205.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small full-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small full-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small full-service restaurant licensee demonstrates that the small full-service restaurant licensee meets the requirements

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described in Subsection 32B-6-202(5); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section ~~{17}~~20. 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:

(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~~] to the nearest edge of the dispensing structure; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside 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:

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(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 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 (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

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(c) Subject to Subsection (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

(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) "Small limited-service restaurant licensee" means a limited-service restaurant licensee that has a grandfathered bar structure whose dispensing area includes more than ~~two-thirds~~ 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(a) when measured in accordance with Subsection (2)(a)(ii); and

(b) based on the licensee's floor plan on file with the department on July 1, 2017.

~~(5)~~ (6) "Waiting area" includes a lobby.

~~(6)~~ (7) "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 ~~18~~ 21. 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 licensee 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) 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 sell, offer for sale, or furnish 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 or for a private event, 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 state or federal legal holiday or for a private event, during the



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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 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

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(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 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) 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]~~

~~[(b) clearly states that the limited-service restaurant licensee is a restaurant and not a bar.]~~

~~[(15)]~~ (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.

~~[(16)]~~ (15) Except as provided in Subsection 32B-6-305.2~~[(18)]~~(16) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.

Section ~~{19}~~22. Section **32B-6-305.2** is amended 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;

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(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]~~

~~[(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)]~~ (2) (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)]~~ (2) shall state the type and amount of each alcoholic product ordered or consumed.

~~[(5)]~~ (3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

~~[(6)]~~ (4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish 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 or for a private event, 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 or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7)]~~ (5) 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

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not include a service charge.

~~[(8)]~~ (6) (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:

- (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 intends to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) except as provided in Subsection ~~[(8)]~~ (6)(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 in a dispensing area and seated at a table, counter, or dispensing structure; 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 alcoholic product 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 alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection ~~[(8)]~~ (6)(b)(i) a single portion of wine is 5 ounces or less.

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

~~[(9)]~~ (7) A patron may consume an alcoholic product only if the patron 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 located in a dispensing area.

~~[(10)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(10)]~~ (8), 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 ~~[(10)]~~ (8)(a).

~~[(11)]~~ (9) 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)]~~ (10) (a) Except as provided in Subsection ~~[(12)]~~ (10)(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)]~~ (11) 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;

(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; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant

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licensee; and

~~[(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)]~~ (b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(13)]~~ (11)(a).

~~[(14)]~~ (12) (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 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.

~~[(15)]~~ (13) 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.

~~[(16)]~~ (14) 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.

~~[(17)]~~ (15) (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.

~~[(18)]~~ (16) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

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(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 this section before the latest applicable date described in Subsection ~~[(18)]~~ (16)(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 ~~{20}~~23. Section **32B-6-305.4** is enacted to read:

### **32B-6-305.4. Small limited-service restaurant licensee -- Exemption.**

(1) Notwithstanding the provisions of Section 32B-6-305 or 32B-6-305.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small limited-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small limited-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small limited-service restaurant licensee demonstrates that the small limited-service restaurant licensee meets the requirements described in Subsection 32B-6-302(5); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section ~~{21}~~24. Section **32B-6-403** is amended to read:

### **32B-6-403. Commission's power to issue bar establishment license.**



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(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a bar establishment licensee, the person shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish 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 bar establishment licensee.

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

(a) (i) before 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 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~~] 10,200;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to:

(i) a dining club licensee; or

(ii) a bar licensee;

(c) (i) if the location, design, and construction of a hotel may require more than one dining club license or bar license location within the hotel to serve the public convenience, the commission may authorize as many as three bar establishment license locations within the hotel under one bar establishment license if:

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

(B) all locations under the bar establishment license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the bar establishment licensee; and

(C) the locations under the bar establishment license operate under the same type of bar establishment license; and

(ii) a facility other than a hotel shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or

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furnished;

(d) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no 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 bar establishment license;

(iii) subject to Subsection (3)(e), the licensed premises of the bar establishment license issued under this Subsection (3)(d) is at the same location where the 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 bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

(e) if a bar establishment licensee of a bar establishment license issued under Subsection (3)(d) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

Section ~~22~~25. Section **32B-6-404** is amended to read:

### **32B-6-404. Types of bar license.**

(1) To obtain an equity 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;

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(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 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 entity or a right to redemption or refund at the equal value.

(2) To obtain a fraternal 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

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(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

(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 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 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 bar establishment license, the commission shall designate the type of bar establishment license for which the person qualifies.

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(b) If requested by a bar establishment licensee, the commission may approve a change in the type of 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 bar licensee from restricting access to the licensed premises on the basis of an individual:

(a) paying a fee; or

(b) agreeing to being on a list of individuals who have access to the licensed premises.

(7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining club license.

(ii) ~~[Effective]~~ No later than 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 Subsection (7).

(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]~~ No later than 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 converted 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) ~~[Before]~~ Except as provided in Subsections (7)(a) and (b), before July 1, 2018, the

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commission may not issue a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license to a person who holds a dining club license on May 9, 2017, for the same premises.

(f) 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 ~~{23}~~26. Section **32B-6-404.1** is amended 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 converts to a full-service restaurant licensee on or before 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~~] and subject to the provisions of this section, 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 restaurant 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

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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 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~~] the day on which the licensee becomes a converted full-service restaurant licensee, and ending June 30, 2019, 64%;

(ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and

(iii) 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 ~~24~~27. 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 bar establishment licensee and staff of the 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 bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

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(2) In addition to complying with Subsection 32B-5-301(3), a bar 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 bar licensee is a bar and [~~not a restaurant~~] that no one under 21 years of age is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a 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 bar establishment licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a bar establishment licensee at least once annually.

(4) (a) A 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 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 bar establishment licensee shall keep its licensed premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the 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.



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- (ii) A 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 licensee;
    - (B) a fraternal 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 bar licensee, except to the extent provided for under Section 32B-6-406.1.
- (b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:
  - (i) work in a lounge or bar area of an equity licensee, fraternal 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 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 bar establishment licensee.
- (6) A 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 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).

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(8) A 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 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 bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the bar establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar establishment licensee shall comply with Section 32B-6-407.

(11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A bar establishment licensee shall own or lease premises suitable for the bar establishment licensee's activities.

(b) A bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the bar establishment licensee's operation.

Section ~~25~~28. Section **32B-6-409** is amended to read:

### **32B-6-409. Conversion from dining club license to different type of retail license.**

(1) In accordance with this section, a dining club licensee may convert its dining club license to a different type of retail license, including a different type of club license during the time period:

- (a) beginning on July 1, 2011; and
- (b) ending on June 30, 2013.

(2) A dining club licensee may convert its dining license only to a retail license for which the dining club licensee qualifies.

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(3) The commission shall provide a procedure for a dining club to convert to a different type of retail license as provided in this section by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) After a dining club license is converted to another type of retail license, the retail licensee shall operate under the provisions relevant to the type of retail license held by the retail licensee ~~[, except that, in accordance with Section 32B-1-201, the retail license is not considered in determining the total number of licenses available for that type of retail license].~~

(5) If a dining club license is converted to full-service restaurant license, limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining club is considered:

(a) a seating grandfathered bar structure for purposes of a full-service restaurant license or a limited-service restaurant license; or

(b) a grandfathered bar structure for purposes of a beer-only restaurant license.

Section ~~26~~29. Section **32B-6-503** is amended to read:

### **32B-6-503. Commission's power to issue airport lounge license.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain an airport lounge license from the commission in accordance with this part.

(2) The commission may issue an airport lounge license to establish airport lounge licensed premises beyond the security point at an international airport and in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on licensed premises operated as an airport lounge.

(3) (a) The commission may not issue a total number of airport lounge licenses for an international airport that at any time exceed one airport lounge license for each ~~[2,500,000]~~ 1,750,000 of total passengers at the international airport.

(b) Notwithstanding Subsection (3)(a), the commission may not reduce the total number of airport lounge licenses unless:

(i) the commission determines that the number of total passengers is reduced by more than 25% from the last day on which the commission determined the total number of airport lounge licenses allowed for that international airport under this Subsection (3); and

(ii) the reduction can be accomplished without the international airport terminating a

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lease for an airport lounge before:

- (A) the expiration of the lease;
- (B) the airport lounge undergoes a change of ownership; or
- (C) the airport lounge ceases operations.

Section 30. 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 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
- (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] Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron,

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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]~~ Subsection 32B-5-307(3) and except as provided in Subsection 32B-5-307(4), 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:

(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.

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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) (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 ~~{27}~~31. Section **32B-6-605.1** is enacted to read:

### **32B-6-605.1. Department study -- Rulemaking authority.**

(1) The department shall:

(a) study the use of banquet catering contracts and the operation of on-premise banquet licenses under the provisions of this part; and

(b) no later than November 30, 2018, submit a written report to the Business and Labor Interim Committee that:

(i) identifies any issues the department discovers during the study described in Subsection (1)(a); and

(ii) recommends possible legislative solutions to the issues, if any.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing:

(a) required terms in a contract between the host of a banquet and an on-premise banquet licensee; and

(b) size requirements for a location of a banquet.

Section ~~{28}~~32. Section **32B-6-902** is amended to read:

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### 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:

(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), 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~~] to the nearest edge of the dispensing structure; or

(C) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (1)(b)(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.

(c) "Grandfathered bar structure" means a bar structure in a licensed premises of a 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

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beer-only restaurant; or

(ii) is a bar structure grandfathered under Section 32B-6-409.

(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) "Small beer-only restaurant licensee" means a beer-only restaurant licensee that has a grandfathered bar structure whose dispensing area includes more than ~~two-thirds~~ 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(i) when measured in accordance with Subsection (1)(b)(i)(B); and

(ii) based on the licensee's floor plan on file with the department on July 1, 2017.

~~(f)~~ (f) "Waiting area" includes a lobby.

(2) Subject to Subsection (1)(d), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Section ~~29~~ 33. 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:

(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).



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(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 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 or for a private event, 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 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 is 21 years of age or older may:

(i) sit;

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(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 described in Subsection (12)(a).

~~[(13) In addition to complying with Subsection 32B-5-301(3), a beer-only 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 beer-only restaurant licensee is a restaurant and not a bar.]~~

~~[(14)] (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.

~~[(15)] (14)~~ Except as provided in Subsection 32B-6-905.1~~[(18)](16)~~ and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section ~~{30}~~34. Section **32B-6-905.1** is amended 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)] (3)~~ (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

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on the premises.

(b) A beverage tab described in this Subsection ~~[(4)]~~ (3) shall state the type and amount of each alcoholic product ordered or consumed.

~~[(5)]~~ (4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

~~[(6)]~~ (5) 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 or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7)]~~ (6) 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)]~~ (7) (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 intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection ~~[(8)]~~ (7)(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 in a dispensing area and seated at a table, counter, or dispensing structure; 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

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premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining 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.

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

~~[(9)]~~ (8) 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)]~~ (9) A patron may not have more than two beers at a time before the patron.

~~[(11)]~~ (10) 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)]~~ (11) (a) Except as provided in Subsection ~~[(12)]~~ (11)(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)]~~ (12) 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;
  - (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

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(B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee;

and

~~[(b) the beer-only restaurant licensee uses a beer that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and]~~

~~[(c)]~~ (b) any instrument or equipment used to dispense the beer is located in an area described in Subsection ~~[(13)]~~ (12)(a).

~~[(14)]~~ (13) (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]~~ 32B-6-902(1)(b)(i)(A), (B), or (C) ~~†~~ [32B-6-202\(2\)](#), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(15)]~~ (14) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

~~[(16)]~~ (15) (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.

~~[(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.]~~

~~[(18)]~~ (16) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

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(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.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection [(18)] (16)(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 ~~{31}~~35. Section **32B-6-905.3** is enacted to read:

### **32B-6-905.3. Small beer-only restaurant licensee -- Exemption.**

(1) Notwithstanding the provisions of Section 32B-6-905 or 32B-6-905.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small beer-only restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small beer-only restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small beer-only restaurant licensee demonstrates that the small beer-only restaurant licensee meets the requirements described in Subsection 32B-6-902(1)(e); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section ~~{32}~~36. Section **32B-7-202** is amended to read:

### **32B-7-202. General operational requirements for off-premise beer retailer.**

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(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with 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 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.

(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) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

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

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

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

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;



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(c) a known interdicted person; or

(d) a known habitual drunkard.

~~[(5)]~~ (6) (a) Subject to the other provisions of this Subsection ~~[(5)]~~ (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in 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 from which the nonalcoholic beverages are not accessible, 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)]~~ (6)(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)]~~ (6)(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)]~~ (6) 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) A violation of this Subsection ~~[(5)]~~ (6) is an infraction.

(e) (i) Except as provided in Subsection ~~[(5)]~~ (6)(e)(ii), the provisions of Subsection ~~[(5)]~~ (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection ~~[(5)]~~ (6)(a)(i) apply on and after August 1, 2017.

~~[(6)]~~ (7) (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

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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)~~] (7) for immediate inspection by:

- (i) a peace officer;
- (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)~~] (7).

Section ~~33~~37. Section **32B-7-401** is amended to read:

### **32B-7-401. Commission's power to issue off-premise beer retailer state license.**

(1) Beginning on July 1, 2018, and except as provided in Subsection (3), 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.

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(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 July 1, 2018, shall ~~[obtain]~~ submit an application for an off-premise beer retailer state license on or before March 1, 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, 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, 2019.]~~

Section ~~{34}~~38. Section **32B-8a-202** is amended to read:

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

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

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

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

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company is newly constituted.

(2) ~~[If a]~~ A business entity ~~[fails to]~~ shall comply with this section within ~~[30]~~ 60 days ~~[of]~~ after the day on which the event described in Subsection (1) occurs~~[-, the business entity's retail license is automatically forfeited]~~.

Section ~~{35}~~39. Section **32B-8a-203** is amended to read:

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

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

(i) the department may grant an extension of this time period not to exceed 30 days;  
and

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

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

(B) has obtained a building permit for the improvements described in Subsection (1)(a)(ii)(A); and

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

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

(i) has a licensed premises that is open ~~[to the public]~~ for business;

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

(iii) has a valid business license.

(2) If a transferee fails to begin operations of the retail license within the time period required by Subsection (1), the following are automatically forfeited effective immediately:

(a) the retail license; and

(b) the retail license fee.

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

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

Section ~~36~~40. 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~~] one or more contiguous parcels of real estate owned or managed by the same person and on which a hotel 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~~] comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in [~~and~~] or can direct or exercise control over the management or policy of the person who owns or manages 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 bar establishment within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 guest rooms.

(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 bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet

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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 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 ~~{37}~~41. Section **32B-8b-301** is amended to read:

### **32B-8b-301. Specific operational requirements for hotel license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a person otherwise operating under a sublicense 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 hotel licensee;
- (ii) individual staff of a hotel licensee;
- (iii) a person otherwise operating under a sublicense;
- (iv) individual staff of a person otherwise operating under a sublicense; or
- (v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

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(i) on a sublicense premises;  
(ii) pursuant to a permit issued under this title; or  
(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) except as provided in Section 32B-8b-302, if on a sublicense premises, in accordance with the operational requirements under the provisions applicable to the sublicense;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2), a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the hotel.

(4) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(5) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of a hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(6) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

Section ~~38~~42. Section **32B-8b-302** is amended to read:

**32B-8b-302. Specific operational requirements for a sublicense.**

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(1) [A] Except as provided in Subsection (2), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) A person operating under a sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent the gross receipts for the sublicense are included in calculating the percentages under Subsection 32B-8-401(4).

~~(2)~~ (3) For purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

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

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

Section ~~39~~43. Section **53F-9-304** is amended to read:

### **53F-9-304. Underage Drinking Prevention Program Restricted Account.**

(1) As used in this section, "account" means the Underage Drinking Prevention Program Restricted Account created in this section.

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

(3) (a) Before the Department of Alcoholic Beverage Control [~~remits~~] deposits any portion of the markup collected under Section 32B-2-304 [~~to the State Tax Commission, the department~~] into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the [~~department~~] Department of Alcoholic Beverage Control deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year [~~2017~~].

(b) For purposes of this Subsection (3), the department shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:



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- (a) in accordance with Subsection (3);
- (b) by appropriations made to the account by the Legislature; and
- (c) by interest earned on money in the account.

(5) The State Board of Education shall use money in the account for the Underage Drinking Prevention Program described in Section 53G-10-406.

Section ~~{40}~~44. Section **53G-10-406** is amended to read:

**53G-10-406. Underage Drinking Prevention Program -- State Board of Education rules.**

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Board" means the State Board of Education.

(c) "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Underage Drinking Prevention Program created in this section.

(e) "School-based prevention [~~presentation~~] program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(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) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention [~~presentation~~] program for students in grade 7 or 8; and

(b) a school-based prevention [~~presentation~~] program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the board under Subsection (6)

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to offer the program.

(4) The board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent of public instruction or the state superintendent of public instruction's designee; and

(g) two members of the State Board of Education, appointed by the chair of the State Board of Education.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

(7) (a) The board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the board to use in selecting a provider described in Subsection (6).

Section ~~{41}~~45. 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.

(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:

(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:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(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

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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~~] Subsection (2)(a)(i) [~~through (iii)~~] or (ii):

(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)~~] Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(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)[~~;~~] or (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)~~](iii)(A) or (B).

(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

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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 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.

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(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;
  - (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;

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(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;

(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

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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;
- (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 ~~{42}~~46. Section **63I-2-232** is amended to read:

### **63I-2-232. Repeal dates -- Title 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) ~~{1}~~(2) Subsection 32B-1-102(114)(b), the language that states~~



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"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)~~2 Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

~~(4)~~3 Subsection 32B-1-604(4) is repealed June 1, 2018.

~~(5)~~4 Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

~~(6)~~5 Section 32B-6-205 is repealed July 1, 2022.

~~(7)~~6 Subsection 32B-6-205.2~~(17)~~(15) is repealed July 1, 2022.

~~(8)~~7 Section 32B-6-205.3 is repealed July 1, 2022.

~~(9)~~8 Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

~~(10)~~9 Section 32B-6-305 is repealed July 1, 2022.

~~(11)~~10 Subsection 32B-6-305.2~~(17)~~(15) is repealed July 1, 2022.

~~(12)~~11 Section 32B-6-305.3 is repealed July 1, 2022.

~~(13)~~12 Section 32B-6-404.1 is repealed July 1, 2022.

~~(14)~~13 Section 32B-6-409 is repealed July 1, 2022.

~~(15)~~14 Section 32B-6-605.1 is repealed July 1, 2019.

~~(15)~~~~(16)~~ Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

~~(16)~~~~(17)~~ Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

~~(17)~~~~(18)~~ Section 32B-6-905 is repealed July 1, 2022.

~~(18)~~~~(19)~~ Subsection 32B-6-905.1~~(17)~~(16) is repealed July 1, 2022.

~~(19)~~~~(20)~~ Section 32B-6-905.2 is repealed July 1, 2022.

~~(20)~~~~(21)~~ Section 32B-7-303 is repealed March 1, 2019.

~~(21)~~~~(22)~~ Section 32B-7-304 is repealed March 1, 2019.

~~(22)~~~~(23)~~ Subsection 32B-8-402(1)(b) is repealed July 1, 2022.