

HB0453S03 compared with HB0453S02

~~text~~ shows text that was in HB0453S02 but was deleted in HB0453S03.

Inserted text shows text that was not in HB0453S02 but was inserted into HB0453S03.

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Representative Timothy D. Hawkes proposes the following substitute bill:

ALCOHOL AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies and enacts provisions related to alcohol.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a tolerance for the alcohol content of beer;
- ▶ modifies which individuals associated with an applicant are subject to a criminal background check by the Alcoholic Beverage Control Commission;
- ▶ amends the deadline for a retail manager or an off-premise retail manager to complete the department's manager training program;
- ▶ clarifies how the department determines eligibility for the small manufacturer markup;

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- ▶ prohibits a person from maintaining a minibar in a hotel guest room;
- ▶ authorizes interim alcoholic beverage management agreements and inventory transfer agreements, under certain circumstances;
- ▶ requires each employee of a retail license who sells, offers for sale, or furnishes an alcoholic product to wear an identification badge;
- ▶ allows a retail licensee to unlock a liquor storage area for the purpose of performing inventory, restocking, repairing, or cleaning;
- ▶ provides that a retail licensee may sell, offer for sale, or furnish beer to a patron in more than one container;
- ▶ provides that a closing retail licensee may transfer its inventory of alcoholic product to another retail licensee owned by the same person;
- ▶ permits a minor who is at least 16 years of age and employed by the restaurant to be present in the restaurant's dispensing area;
- ▶ provides that a performing arts facility may hold an on-premise banquet license;
- ▶ allows an off-premise beer retailer to sell, offer for sale, or furnish beer through a drive through window;
- ▶ allows certain manufacturing package agencies to hold an off-premise beer retailer state license for the same premises, provided the licensee only sells beer that is the product of the manufacturing licensee that holds the package agency;
- ▶ permits a brewery manufacturing licensee to transport beer, heavy beer, or flavored malt beverage between licensed premises under certain circumstances;
- ▶ enacts the Liquor Transport License Act, which authorizes the commission to issue liquor transport licenses under which a person may transport liquor from a state store or package agency to a retail licensee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313

32B-1-305, as last amended by Laws of Utah 2017, Chapter 455

~~**32B-1-606**~~**32B-1-607**, as ~~last amended~~enacted by Laws of Utah ~~2018~~2010,
Chapter ~~249~~276

32B-2-202, as last amended by Laws of Utah 2018, Second Special Session, Chapter 7

32B-2-204, as enacted by Laws of Utah 2010, Chapter 276

32B-2-304, as last amended by Laws of Utah 2018, Chapters 313, 329, and 415

32B-2-605, as last amended by Laws of Utah 2018, Chapter 249

32B-5-102, as enacted by Laws of Utah 2010, Chapter 276

32B-5-207, as last amended by Laws of Utah 2018, Chapter 249

32B-5-301, as last amended by Laws of Utah 2011, Chapter 334

32B-5-303, as last amended by Laws of Utah 2011, Chapter 307

32B-5-304, as last amended by Laws of Utah 2011, Chapters 307 and 334

32B-5-306, as enacted by Laws of Utah 2010, Chapter 276

32B-5-308, as last amended by Laws of Utah 2018, Chapter 249

32B-5-310, as enacted by Laws of Utah 2010, Chapter 276

32B-6-203, as last amended by Laws of Utah 2017, Chapter 471

32B-6-205, as last amended by Laws of Utah 2018, Chapter 249

32B-6-205.2, as last amended by Laws of Utah 2018, Chapters 249 and 281

32B-6-206, as enacted by Laws of Utah 2013, Chapter 349

32B-6-303, as last amended by Laws of Utah 2017, Chapter 471

32B-6-305, as last amended by Laws of Utah 2018, Chapter 249

32B-6-305.2, as last amended by Laws of Utah 2018, Chapters 249 and 281

32B-6-603, as last amended by Laws of Utah 2016, Chapter 82

32B-6-605, as last amended by Laws of Utah 2018, Chapter 249

32B-6-702, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

32B-6-703, as last amended by Laws of Utah 2017, Chapter 455

32B-6-803, as last amended by Laws of Utah 2016, Chapter 82

32B-6-805, as last amended by Laws of Utah 2012, Chapter 365

32B-6-902, as last amended by Laws of Utah 2018, Chapters 249 and 281

32B-6-903, as last amended by Laws of Utah 2017, Chapter 471

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32B-6-905, as last amended by Laws of Utah 2018, Chapter 249

32B-6-905.1, as last amended by Laws of Utah 2018, Chapters 249 and 281

32B-7-202, as last amended by Laws of Utah 2018, Chapter 249

32B-11-503, as last amended by Laws of Utah 2016, Chapter 266

62A-15-401, as last amended by Laws of Utah 2018, Chapters 249 and 281

63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

ENACTS:

32B-7-407, Utah Code Annotated 1953

32B-7-408, Utah Code Annotated 1953

32B-17-101, Utah Code Annotated 1953

32B-17-201, Utah Code Annotated 1953

32B-17-202, Utah Code Annotated 1953

32B-17-203, Utah Code Annotated 1953

32B-17-204, Utah Code Annotated 1953

32B-17-205, Utah Code Annotated 1953

32B-17-206, Utah Code Annotated 1953

32B-17-301, Utah Code Annotated 1953

32B-17-302, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

32B-1-701, (Renumbered from 32B-5-402, as last amended by Laws of Utah 2017, Chapter 455)

32B-1-702, (Renumbered from 32B-5-403, as last amended by Laws of Utah 2017, Chapter 455)

32B-1-703, (Renumbered from 32B-5-404, as last amended by Laws of Utah 2017, Chapter 455)

32B-1-704, (Renumbered from 32B-5-405, as last amended by Laws of Utah 2018, Chapter 249)

32B-1-705, (Renumbered from 32B-5-406, as last amended by Laws of Utah 2018, Chapter 249)

REPEALS:

32B-5-401, as enacted by Laws of Utah 2010, Chapter 276

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Utah Code Sections Affected by Coordination Clause:

32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313

63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

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) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

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(vii) an over-the-counter medicine.

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

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

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

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

(6) "Banquet" means [~~an~~] a private 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; or

(v) performing arts facility;

(b) for which there is a contract:

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

and

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

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

(7) "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.

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(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 ~~1~~:

~~(A) 4% of alcohol by volume ~~{, plus a tolerance of 0.18%};~~ or {~~

~~(B) 3.2% by weight ~~{, plus a tolerance of 0.15%};~~ 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

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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;
- (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.

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(22) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (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) "Crime involving moral turpitude" is as defined by the commission by rule.

~~[(27)]~~ (28) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

~~[(28)]~~ (29) "Department compliance officer" means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

~~[(29)]~~ (30) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

~~[(30)]~~ (31) "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

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commission as a dining club license.

~~[(31)]~~ (32) "Director," unless the context requires otherwise, means the director of the department.

~~[(32)]~~ (33) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

~~[(33)]~~ (34) (a) Subject to Subsection ~~[(33)]~~ (34)(b), "dispense" means:

- (i) drawing an alcoholic product; and
- (ii) using the alcoholic product 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)]~~ (34) 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)]~~ (35) "Dispensing structure" means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

~~[(35)]~~ (36) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

~~[(36)]~~ (37) "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)]~~ (38) "Educational facility" includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

~~[(38)]~~ (39) "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)]~~ (40) "Event permit" means:

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

~~[(40)]~~ (41) "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)]~~ (42) (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)]~~ (43) "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)]~~ (44) "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)]~~ (45) (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)]~~ (46) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

~~[(46)]~~ (47) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

~~[(47)]~~ (48) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

~~[(48)]~~ (49) (a) "Heavy beer" means a product that:

(i) contains more than ~~1~~₂

~~(A) } 4% alcohol by volume {~~; and ~~{}, less a tolerance of 0.18%; or~~

~~(B) 3.2% alcohol by weight, less a tolerance of 0.15%; and}~~

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

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

~~[(49) "Hotel" is as defined by the commission by rule.]~~

(50) "Hotel" means a commercial lodging establishment that:

(a) offers at least 30 temporary sleeping accommodations for compensation;

(b) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

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(c) (i) has adequate kitchen or culinary facilities on the premises to provide complete meals; or

(ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract that can accommodate a least 75 individuals; or

(B) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

~~[(50)]~~ (51) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

~~[(51)]~~ (52) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

~~[(52)]~~ (53) "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.

~~[(53)]~~ (54) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

~~[(54)]~~ (55) "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.

~~[(55)]~~ (56) "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 ~~[(55)]~~ (56)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical

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signs produced by the overconsumption of an alcoholic product.

~~[(56)]~~ (57) "Investigator" means an individual who is:

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

~~[(57)]~~ (58) "Invitee" means the same as that term is defined in Section 32B-8-102.

~~[(58)]~~ (59) "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~~[-]~~;

or

- (e) a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(59)]~~ (60) "Licensee" means a person who holds a license.

~~[(60)]~~ (61) "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.

~~[(61)]~~ (62) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~[(62)]~~ (63) (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

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(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.

~~[(63)]~~ (64) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(65) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(64)]~~ (66) "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.

~~[(65)]~~ (67) "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.

~~[(66)]~~ (68) "Lounge or bar area" is as defined by rule made by the commission.

~~[(67)]~~ (69) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(68)]~~ (70) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

~~[(69)]~~ (71) (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

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(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.

(72) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

~~[(70)]~~ (73) "Minor" means an individual under the age of 21 years.

~~[(71)]~~ (74) "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.

~~[(72)]~~ (75) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

~~[(73)]~~ (76) (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.

~~[(74)]~~ (77) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

~~[(75)]~~ (78) "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.

~~[(76)]~~ (79) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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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).

~~[(77)]~~ (80) "Opaque" means impenetrable to sight.

~~[(78)]~~ (81) "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.

~~[(79)]~~ (82) "Package agent" means a person who holds a package agency.

~~[(80)]~~ (83) "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.

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

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

(ii) contains over 2,500 seats;

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

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

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

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~~[(81)]~~ (85) "Permittee" means a person issued a permit under:

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

~~[(82)]~~ (86) "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 ~~[(82)]~~ (86)(a) through (f); or
 - (ii) a package agent.

~~[(83)]~~ (87) "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.

~~[(84)]~~ (88) "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.

~~[(85)]~~ (89) (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,

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whether for an admission fee or not.

~~[(86)]~~ (90) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the

identification is issued;

- (C) includes date of birth; and
- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
 - (A) includes date of birth;
 - (B) has a picture affixed; and
 - (C) is issued:
 - (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.

~~[(87)]~~ (91) (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

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function.

~~[(88)]~~ (92) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(89)]~~ (93) "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 ~~[(89)]~~ (93)(a) to a third party for the third party's event.

~~[(90)]~~ (94) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(91)]~~ (95) (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.

~~[(92)]~~ (96) "Residence" means a person's principal place of abode within Utah.

~~[(93)]~~ (97) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~[(94)]~~ (98) "Resort" means the same as that term is defined in Section 32B-8-102.

~~[(95)]~~ (99) "Resort facility" is as defined by the commission by rule.

~~[(96)]~~ (100) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

~~[(97)]~~ (101) "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;

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

(c) serving alcoholic beverages to minors.

~~[(98)]~~ (102) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

~~[(99)]~~ (103) "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.

~~[(100)]~~ (104) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

~~[(101)]~~ (105) (a) "School" means a building used primarily for the general education of minors.

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

~~[(102)]~~ (106) "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

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defined in this title or the rules made by the commission.

~~[(103)]~~ (107) "Serve" means to place an alcoholic product before an individual.

~~[(104)]~~ (108) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

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

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(104)]~~

(108)(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.

~~[(105)]~~ (109) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(106)]~~ (110) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(111) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

~~[(107)]~~ (112) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(108)]~~ (113) (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.

~~[(109)]~~ (114) "Sports center" is as defined by the commission by rule.

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~~[(110)]~~ (115) (a) "Staff" means an individual who engages in activity governed by this title:

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

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

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

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

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

(vi) an operator; or

(vii) a representative.

~~[(111)]~~ (116) "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.

~~[(112)]~~ (117) "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

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- (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.

~~[(113)]~~ (118) (a) "State store" means a facility for the sale of packaged liquor:

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

~~[(114)]~~ (119) (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.

~~[(115)]~~ (120) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

~~[(116)]~~ (121) "Supplier" means a person who sells an alcoholic product to the department.

~~[(117)]~~ (122) "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.

~~[(118)]~~ (123) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~[(119)]~~ (124) "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.

~~[(120)]~~ (125) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

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~~[(121)]~~ (126) "Unsaleable liquor merchandise" means a container that:

- (a) is unsaleable because the container is:
 - (i) unlabeled;
 - (ii) leaky;
 - (iii) damaged;
 - (iv) difficult to open; or
 - (v) partly filled;
- (b) (i) has faded labels or defective caps or corks;
- (ii) has contents that are:
 - (A) cloudy;
 - (B) spoiled; or
 - (C) chemically determined to be impure; or
- (iii) contains:
 - (A) sediment; or
 - (B) a foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

~~[(122)]~~ (127) (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" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

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

~~[(123)]~~ (128) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section **32B-1-305** is amended to read:

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

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

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

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

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

(c) consent to a background check by:

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

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

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

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

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

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

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

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

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;

(vii) a member who owns at least 20% of a limited liability company; or

(viii) an individual employed to act in a supervisory or managerial capacity; or

(e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:

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- (i) is approved to operate a package agency; or
- (ii) is licensed by the commission.

(3) (a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency or license.

(b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the licensee.

~~[(3)]~~ (4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:

- (a) continued operation of a package agency; or
- (b) renewal of a license.

~~[(4)]~~ (5) The department may require as a condition of continued employment that a department employee:

- (a) submit to a background check in a form acceptable to the department; and
- (b) consent to a fingerprint criminal background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.

Section 3. Section ~~{32B-1-606}~~ 32B-1-607 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 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~~

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~~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) subject to Subsection (3), the alcohol content of the 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 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) A label satisfies the requirement described in Subsection (2)(a)(ii) if the alcohol content stated on the label is:~~

~~—— (a) 0.18% or less above or below the actual alcohol content of the malted beverage, if stated by volume; or~~

~~—— (b) 0.15% or less above or below the actual alcohol content of the malted beverage, if stated by weight.~~

~~—— [(3)] (4) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2):~~

~~—— [(4)] (5) To determine whether a malted beverage is described in Subsection (1)~~

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~~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.~~

~~—— }32B-1-607. Rulemaking authority.~~

~~(1) The commission may adopt rules necessary to implement this part.~~

~~(2) Notwithstanding Subsections 32B-1-102(10) and (49), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:~~

~~(a) up to 0.18% above or below when measured by volume; or~~

~~(b) up to 0.15% above or below when measured by weight.~~

Section 4. Section **32B-1-701**, which is renumbered from Section 32B-5-402 is renumbered and amended to read:

Part 7. Alcohol Training and Education Act

~~[32B-5-402].~~ **32B-1-701. Definitions.**

As used in this part:

(1) "Off-premise retail manager" means an individual who~~[:-(a)]~~ manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act~~[;-or]~~.

~~[(b) supervises the sale of beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.]~~

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(2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) "Off-premise retail staff" does not include an off-premise retail manager.

(3) "Retail manager" means an individual who:

(a) manages operations at a premises that is licensed under this chapter; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under this chapter.

(4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under this chapter.

(b) "Retail staff" does not include a retail manager.

Section 5. Section **32B-1-702**, which is renumbered from Section 32B-5-403 is renumbered and amended to read:

~~[32B-5-403].~~ **32B-1-702. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.**

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals fail to complete an alcohol training and education seminar:

(a) a retail manager; or

(b) retail staff.

(2) A city, town, metro township, or county in which a retail licensee conducts business may suspend, revoke, or not renew the business license of the retail licensee if a retail manager or retail staff fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar:

(a) an off-premise retail manager; or

(b) off-premise retail staff.

Section 6. Section **32B-1-703**, which is renumbered from Section 32B-5-404 is renumbered and amended to read:

~~[32B-5-404].~~ **32B-1-703. Alcohol training and education for off-premise consumption.**

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(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

- (i) an off-premise retail manager; or
- (ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar within 30 days of the day on which the individual becomes staff of an off-premise beer retailer.

(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.

(2) In accordance with Section [~~32B-5-403~~] 32B-1-702, a local authority may immediately suspend the license of an off-premise beer retailer that allows an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).

Section 7. Section **32B-1-704**, which is renumbered from Section 32B-5-405 is renumbered and amended to read:

~~[32B-5-405].~~ **32B-1-704. 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:

- (i) the statutes and rules that govern the most common types of violations under this

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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 complete the training described in Subsection (1)(a) no later than the [~~earlier~~] later of:

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

(ii) [~~before~~] 30 days after the day on which the retail licensee obtains a retail license under this chapter.

(b) Except as provided in Subsection (5), each off-premise retail manager shall complete the training described in Subsection (2) no later than the [~~earlier~~] later of:

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

(ii) [~~before~~] 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.

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(c) (i) If the commission finds that 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 within 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 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 within 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 8. Section **32B-1-705**, which is renumbered from Section 32B-5-406 is renumbered and amended to read:

~~[32B-5-406]~~. **32B-1-705**. **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

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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's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section 9. Section **32B-2-202** is amended to read:

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

(1) The commission shall:

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

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

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

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

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

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

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

- (i) a package agency;
- (ii) a full-service restaurant license;
- (iii) a master full-service restaurant license;
- (iv) a limited-service restaurant license;
- (v) a master limited-service restaurant license;
- (vi) a bar establishment license;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license;
- (ix) a resort license, under which at least four or more sublicenses may be included;
- (x) an on-premise beer retailer license;
- (xi) a reception center license;
- (xii) a beer-only restaurant license;
- (xiii) a hotel license, under which at least three or more sublicenses may be included;
- (xiv) subject to Subsection (4), a single event permit;
- (xv) subject to Subsection (4), a temporary beer event permit;
- (xvi) a special use permit;
- (xvii) a manufacturing license;
- (xviii) a liquor warehousing license;
- (xix) a beer wholesaling license; [~~and~~]
- (xx) a liquor transport license;
- (xxi) an off-premise beer retailer state license;
- (xxii) a master off-premise beer retailer state license; and
- ~~(xxiii)~~ (xxiii) one of the following that holds a certificate of approval:
 - (A) an out-of-state brewer;
 - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- (f) issue, deny, suspend, or revoke the following conditional licenses:
 - (i) a conditional retail license as defined in Section 32B-5-205; and

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(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

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

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

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

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

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

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

(A) sound management principles are being followed; and

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

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

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

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

(i) considered expedient; and

(ii) approved by the governor;

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

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

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

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

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

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

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

Section 10. Section **32B-2-204** is amended to read:

32B-2-204. Powers and duties of the department -- Immunity.

(1) The department shall control liquor merchandise inventory including:

- (a) listing and delisting a product;
- (b) the procedures for testing a new product;
- (c) purchasing policy;
- (d) turnover requirements for a regularly coded product to be continued; and
- (e) the disposition of discontinued, distressed, or unsaleable merchandise.

(2) (a) The department shall report to the governor on the administration of this title:

- (i) as the governor may require; and
- (ii) annually by no later than November 30, for the fiscal year ending June 30 of the

year in which the report is made.

(b) A report under this Subsection (2) shall contain:

(i) a statement of the nature and amount of the business transacted by the department during the year;

(ii) a statement of the department's assets and liabilities including a profit and loss account, and other accounts and matters necessary to show the results of operations of the department for the year;

(iii) general information on the application of this title in the state; and

(iv) any other information requested by the governor.

(c) The department shall submit a copy of a report described in this Subsection (2) to the Legislature.

(3) The department shall maintain insurance against loss on each motor vehicle

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operated by it on any public highway. A motor vehicle shall be covered for:

(a) liability imposed by law upon the department for damages from bodily injuries suffered by one or more persons by reason of the ownership, maintenance, or use of the motor vehicle; and

(b) liability or loss from damage to or destruction of property of any description, including liability of the department for the resultant loss of use of the property, which results from accident due to the ownership, maintenance, or use of the motor vehicle.

(4) (a) The department may sue, be sued, and defend in a proceeding, in a court of law or otherwise, in the name of the department.

(b) An action may not be taken:

(i) against the commission; or

(ii) in the name of a commissioner.

(5) The department is liable to respond in damages in a case if a private corporation under the same circumstances would be liable.

(6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies in an action commenced against the department for damages sustained as a result of department ownership, maintenance, or use of a motor vehicle under Subsections (4) and (5).

(b) In an action described in Subsection (6)(a), the commission and each commissioner are immune from suit.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to measuring the alcohol content of beer.

Section 11. Section **32B-2-304** is amended to read:

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

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who

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manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

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

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

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

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

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

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

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

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

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

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

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

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.

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

Section 12. 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:

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- (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:

(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

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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.

(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

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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:

(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

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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;

(D) a dining club license; or

(E) a bar license;

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

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

(v) the manufacturing facility:

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

(B) operates the restaurant, 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, 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

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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.

(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

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

(19) A package agency may not maintain a minibar.

Section 13. Section **32B-5-102** is amended to read:

32B-5-102. Definitions.

[Reserved]

As used in this chapter:

(1) "Interim alcoholic beverage management agreement" means an agreement:

(a) in connection with:

(i) the transfer of a retail license; and

(ii) (A) an asset sale of a retail licensee; or

(B) a transfer of the management of a retail licensee to a new entity; and

(b) under which the purchaser or the new management entity agrees to perform the

operations of the retail licensee during the period that:

(i) begins when:

(A) the asset sale closes; or

(B) the new management agreement is executed; and

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(ii) ends on the day after the day on which the commission approves the transfer of the retail license.

(2) "Inventory transfer agreement" means an agreement under which a retail licensee agrees to sell or otherwise transfer all or part of the retail licensee's inventory of alcoholic product.

Section 14. Section **32B-5-207** is amended to read:

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.

(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 premises.

(b) Notwithstanding Subsection (2)(a), the commission may issue and one or more licensees may hold more than one type of retail license for the same 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.

(3) When one or more licensees hold more than one type of retail license for the same premises under Subsection (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:

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(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 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.

(5) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail license in violation of Subsection (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 (2) or (4) on or after July 1, 2018.

(c) Before July 1, 2018, each licensee described in Subsection (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 (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 (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 15. Section **32B-5-301** is amended to read:

32B-5-301. General operational requirements.

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(1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license.

(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 retail licensee;
- (ii) individual staff of a retail licensee; or
- (iii) both a retail licensee and staff of the retail licensee.

(2) (a) If there is a conflict between this part and the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license, the relevant part under Chapter 6 governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

(c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail License Act, refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place 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).

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(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 retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail

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licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) (a) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules related to the requirement described in Subsection (8)(a).

Section 16. Section **32B-5-303** is amended to read:

32B-5-303. Purchase and storage of an alcoholic product by a retail licensee.

(1) (a) A retail licensee may not purchase liquor except from a state store or package agency.

(b) A retail licensee may transport liquor purchased from a state store or package agency from the place of purchase to the licensed premises.

(c) A retail licensee shall pay for liquor in accordance with rules established by the commission.

(2) (a) (i) A retail licensee may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the retail licensee purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) Violation of this Subsection (2)(a) is a class A misdemeanor.

(b) (i) If a retail licensee purchases beer under Subsection (2)(a) from a beer wholesaler licensee, the retail licensee 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 retail licensee is located, unless an alternate wholesaler is authorized by the department to sell to the retail licensee as provided in Section 32B-13-301.

(ii) Violation of Subsection (2)(b) is a class B misdemeanor.

(3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product in a place other than as designated in the retail licensee's application, unless the retail licensee first applies for and receives approval from the department for a change of location within the

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licensed premises.

(4) A liquor storage area shall remain locked at all times [~~other than those hours and days when~~] except when:

(a) liquor sales are authorized by law[:]; or

(b) the licensee:

(i) inventories or restocks the alcoholic product in the liquor storage area; or

(ii) repairs or cleans the liquor storage area.

Section 17. Section **32B-5-304** is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following requirements:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

(iii) the retail licensee shall designate a location where flavorings are stored on the floor plan submitted to the department; and

(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert; and

(c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

(2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

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(b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(i) in an open original container; and

(ii) in a container on draft.

(b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

(i) in a size of container that exceeds two liters; or

(ii) to an individual patron in a size of container that exceeds one liter.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 18. Section **32B-5-306** is amended to read:

32B-5-306. Purchasing or selling alcoholic product.

(1) A retail licensee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

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

(c) a known interdicted person; or

(d) a known habitual drunkard.

(2) (a) A patron may only purchase an alcoholic product in the licensed premises of a retail licensee from and be served by an individual who is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(b) An individual may sell, offer for sale, or furnish an alcoholic product to a patron

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only if the individual is:

- (i) staff of the retail licensee; and
- (ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(c) Notwithstanding Subsection (2)(a) or (b), a patron who purchases bottled wine from staff of the retail licensee or carries bottled wine onto the retail licensee's premises pursuant to Section 32B-5-307 may thereafter serve wine from the bottle to the patron or others at the patron's table.

(3) The following may not purchase an alcoholic product for a patron:

- (a) a retail licensee; or
- (b) staff of a retail licensee.

(4) After a retail licensee closes the retail licensee's business at the licensed premises, the retail licensee may transfer the retail licensee's inventory of alcoholic product from that premises to another premises licensed under this chapter that is owned by the same retail licensee.

Section 19. 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~~] 16 years of age to bus tables, including containers that contain an alcoholic product.

Section 20. Section **32B-5-310** is amended to read:

32B-5-310. Notifying department of change in ownership -- Inventory transfers -- Interim alcoholic beverage management agreements.

(1) The commission may suspend or revoke a retail license if the retail licensee does

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not immediately notify the department of a change in:

~~[(1)]~~ (a) ownership of ~~[the premises of]~~ the retail license;

(b) the entity that manages the retail licensee or a premises licensed under this chapter;

~~[(2)]~~ (c) for a corporate owner, the:

~~[(a)]~~ (i) corporate officers or directors of the retail licensee; or

~~[(b)]~~ (ii) shareholders holding at least 20% of the total issued and outstanding stock of

the corporation; or

~~[(3)]~~ (d) for a limited liability company:

~~[(a)]~~ (i) managers of the limited liability company; or

~~[(b)]~~ (ii) members owning at least 20% of the limited liability company.

(2) Notwithstanding any other provision of this title, in connection with an event described in Section 32B-8a-202 or an asset sale of a retail licensee, the parties to the transaction may enter into an inventory transfer agreement.

(3) A retail licensee may enter into an interim alcoholic beverage management agreement that provides:

(a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the current retail licensee; and

(b) for the duration of the agreement, the current retail licensee:

(i) shall comply with the requirements of this title that are applicable to the retail license; and

(ii) in accordance with this title, is subject to disciplinary action by the commission for any violation of this title.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing the requirements of:

(a) an inventory transfer agreement; and

(b) an interim alcoholic beverage management agreement.

Section 21. Section **32B-6-203** is amended to read:

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

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

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(2) The commission may issue a full-service restaurant license to establish full-service restaurant 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 as a full-service restaurant.

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

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

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

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

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

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

(I) within the same hotel; and

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

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

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a full-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a full-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a service charge.

Section 22. 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.

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

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

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

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

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection [~~(12)~~] (11)(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:

- (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

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

~~[(10)]~~ (9) 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)]~~ (10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

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

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

(c) Except as provided in Subsection ~~[(11)]~~ (10)(d), at a seating grandfathered bar

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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)]~~ (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 grandfathered bar structure;

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

(iii) an area that is:

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

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

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

(i) stored in an area described in Subsection ~~[(12)]~~ (11)(a); or

(ii) in an area not described in Subsection ~~[(12)]~~ (11)(a) on the licensed premises and:

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(A) immediately before the alcoholic product is dispensed it is in an unopened container; (B) the unopened container is taken to an area described in Subsection ~~[(12)]~~ (11)(a) before it is opened; and (C) once opened, the container is stored in an area described in Subsection ~~[(12)]~~ (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) 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)]~~ (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-6-205.2~~[(16)]~~(15) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 23. 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.

(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.

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

(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.

(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.

~~[(5) A full-service restaurant licensee shall maintain at least 70% of the full-service restaurant licensee's total restaurant business from the sale of food, which does not include:]~~

~~[(a) mix for an alcoholic product; or]~~

~~[(b) a service charge.]~~

~~[(6)]~~ (5) (a) A full-service restaurant licensee may not furnish an alcoholic product except after:

(i) the patron to whom the full-service restaurant licensee 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 ~~[(6)]~~ (5)(b), consume the food at the same

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location where the patron is seated and 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 ~~[(6)]~~ (5)(b)(i) a single portion of wine is 5 ounces or less.

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

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

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

~~[(9)]~~ (8) 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.

~~[(10)]~~ (9) (a) Except as provided in Subsection ~~[(10)]~~ (9)(b), a minor may not sit,

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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]~~

(A) at least 16 years of age and working as an employee of the full-service restaurant licensee; or

(B) ~~[to perform]~~ performing maintenance and cleaning services as an employee of the full-service restaurant licensee 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.

~~[(11)]~~ (10) 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 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 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) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(11)]~~ (10)(a).

~~[(12)]~~ (11) (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

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dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(13)]~~ (12) 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.

~~[(14)]~~ (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.

~~[(15)]~~ (14) (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 Rulemaking Act.

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

~~[(16)]~~ (15) (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 ~~[(16)]~~ (15)(a)(ii):

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- (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 24. Section **32B-6-206** is amended to read:

32B-6-206. Master full-service restaurant license.

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

- (i) owns each of the full-service restaurants;
- (ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and
- (iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3) (a) A master full-service restaurant license expires on October 31 of each year.

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

(4) (a) The nonrefundable application fee for a master full-service restaurant license is \$330.

(b) The initial license fee for a master full-service restaurant license is \$10,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the master full-service restaurant license determined in accordance with Subsection

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32B-6-204(3)(b).

(c) The renewal fee for a master full-service restaurant license is \$1,000 plus a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of \$330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master full-service restaurant license;

(ii) individual staff of the location under the master full-service restaurant license; or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master full-service restaurant licensee or individual staff of the master full-service restaurant licensee if during a period beginning on November 1 and ending October 31:

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(i) at least 25% of the locations covered by the master full-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master full-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section 25. Section **32B-6-303** is amended to read:

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

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

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

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

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

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

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

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

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

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if:

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

limited-service restaurant licensee.

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

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a limited-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a limited-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

- (a) mix for an alcoholic product; or
- (b) a service charge.

Section 26. 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 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

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(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)]~~ (11)(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 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)]~~ (7) (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

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adequate culinary facilities for food preparation and dining accommodations.

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

~~[(10)]~~ (9) 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)]~~ (10) (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)]~~ (10)(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 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.

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~~[(12)]~~ (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 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)]~~ (11)(a); or

(ii) in an area not described in Subsection ~~[(12)]~~ (11)(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)]~~ (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection ~~[(12)]~~ (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) 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:

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

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

Section 27. 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;
- (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) 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 (2) shall state the type and amount of each alcoholic product ordered or consumed.

(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.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or

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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.

~~[(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 not include a service charge.]~~

~~[(6)]~~ (5) (a) A limited-service restaurant licensee may not furnish an alcoholic product except after:

(i) the patron to whom the limited-service restaurant licensee 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 ~~[(6)]~~ (5)(b), consume the food at the same

location where the patron is seated and 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

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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 ~~[(6)]~~ (5)(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.

~~[(7)]~~ (6) A patron may consume an alcoholic product only if the patron is seated at:

- (a) a table that is located in a dining area or a dispensing area;
- (b) a counter that is located in a dining area or a dispensing area; or
- (c) a dispensing structure located in a dispensing area.

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

~~[(9)]~~ (8) 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.

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

(A) at least 16 years of age and working as an employee of the limited-service restaurant licensee; or

(B) [to perform] performing maintenance and cleaning services as an employee of the limited-service restaurant licensee 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

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limited-service restaurant licensee's premises in which the minor is permitted to be.

~~[(11)]~~ (10) 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 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 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 licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(11)]~~ (10)(a).

~~[(12)]~~ (11) (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.

~~[(13)]~~ (12) 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.

~~[(14)]~~ (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.

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~~[(15)]~~ (14) (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.

~~[(16)]~~ (15) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(16)]~~ (15)(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 28. Section **32B-6-603** is amended to read:

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

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

(i) a hotel;

(ii) a resort facility;

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- (iii) a sports center; [or]
- (iv) a convention center[.]; or
- (v) a performing arts facility.

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

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

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

(3) Subject to Section 32B-1-201, the commission may not issue a total number of on-premise banquet licenses that at any time exceed the number determined by dividing the population of the state by 28,765.

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

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

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

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

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

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

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

(a) mix for an alcoholic product; or

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

Section 29. 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

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Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

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

- (i) an on-premise banquet licensee;
- (ii) individual staff of an on-premise banquet licensee; or
- (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, ~~or~~ convention center, or performing arts facility that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

- (i) an authorized representative of the commission or the department; or
- (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) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding 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.

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(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:

(a) may provide room service in portions described in Section 32B-5-304; and

(b) 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)] (i) begins at 1 a.m.; and~~

~~[(b)] (ii) 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)] (9) (a) Subject to the other provisions of this Subsection [(10)] (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 ~~[(10)]~~ (9)(a).

~~[(11)]~~ (10) (a) An on-premise banquet licensee shall supervise and direct a person

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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)]~~ (11) 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)]~~ (12) (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.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 30. Section **32B-6-702** is amended to read:

32B-6-702. Definitions.

As used in this part, "recreational amenity" ~~[is defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this section shall define "recreational amenity" to be one or more of the following or an activity substantially similar to one of the following]~~ means:

- (1) a billiard parlor;
- (2) a pool parlor;
- (3) a bowling facility;
- (4) a golf course;
- (5) miniature golf;
- (6) a golf driving range;
- (7) a tennis club;
- (8) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;
- (9) a concert venue that has a seating capacity equal to or greater than 6,500;
- (10) one of the following if owned by a government agency:
 - (a) a convention center;
 - (b) a fair facility;
 - (c) an equestrian park;

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- (d) a theater; or
- (e) a concert venue;
- (11) an amusement park:
 - (a) with one or more permanent amusement rides; and
 - (b) located on at least 50 acres;
- (12) a ski resort;
- (13) a venue for live entertainment if the venue:
 - (a) is not regularly open for more than five hours on any day;
 - (b) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and
- (c) is operated so that no more than 15% of its total annual receipts are from the sale of beer; or
- (14) concessions operated within the boundary of a park administered by the:
 - (a) Division of Parks and Recreation; or
 - (b) National Parks Service.

Section 31. Section **32B-6-703** is amended to read:

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

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

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

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

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

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

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

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

(I) a beer bar;

(II) a parlor;

(III) a lounge;

(IV) a cabaret; or

(V) a nightclub;

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

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

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

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

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

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

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

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

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

(I) management experience;

(II) past beer retailer management experience; and

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

(e) On or after March 1, 2012:

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

(A) maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer, except that a person may include gross revenue from business directly related to a

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recreational amenity that is owned or operated by a political subdivision if the person has a contract meeting the requirements of Subsection (2)(e)(iv) with the political subdivision; or

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

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

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

(B) operate as a tavern.

(iii) A person who, after August 1, 2011, applies for an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905[(12)](11)(a)(ii).

(iv) A contract described in Subsection (2)(e)(i)(A) shall:

(A) allow the beer retailer to include the total gross revenue from operations of the recreational amenity in the beer retailer's total gross receipts for purposes of Subsection (2)(e)(i)(A); and

(B) give the department the authority to audit financial information of the political subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A) are met.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The commission may issue a reception center license to establish reception center 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 as a reception center.

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

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

(5) (a) To be licensed as a reception center, a person may not maintain in excess of 30% of its total annual receipts from the sale of an alcoholic product, which includes:

(i) mix for an alcoholic product; or

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

(b) A reception center licensee shall report the information necessary to show compliance with this Subsection (5) to the department on an annual basis.

Section 33. Section **32B-6-805** is amended to read:

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

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a reception center licensee and staff of the reception center licensee shall

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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 reception center licensee;
- (ii) individual staff of a reception center licensee; or
- (iii) both a reception center licensee and staff of the reception center licensee.

(2) In addition to complying with Section 32B-5-303, a reception center licensee shall store an alcoholic product in a storage area described in Subsection [~~(15)~~] (14)(a).

(3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall provide the following with advance notice of a scheduled event in accordance with rules made by the commission:

- (i) the department; and
- (ii) the local law enforcement agency responsible for the enforcement of this title in the jurisdiction where the reception center is located.

(b) Any of the following may conduct a random inspection of an event:

- (i) an authorized representative of the commission or the department; or
- (ii) a law enforcement officer.

(4) (a) Except as otherwise provided in this title, a reception center licensee may sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the reception center's licensed premises.

(b) A host of an event, a patron, or a person other than the reception center licensee or staff of the reception center licensee, may not remove an alcoholic product from the reception center's licensed premises.

(c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an alcoholic product into or onto, or remove an alcoholic product from, the reception center.

(5) (a) A reception center licensee may not leave an unsold alcoholic product at an event following the conclusion of the event.

(b) At the conclusion of an event, a reception center 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 reception center licensee's approved locked storage area any:

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(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (5)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at an event, a reception center licensee:

(i) shall store the alcoholic product in accordance with Subsection (2); and

(ii) may use the alcoholic product at more than one event.

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

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

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

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

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

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

~~[(i) mix for an alcoholic product; or]~~

~~[(ii) a charge in connection with the furnishing of an alcoholic product.]~~

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

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

~~[(11)]~~ (10) (a) Subject to the other provisions of this Subsection ~~[(11)]~~ (10), 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 ~~[(11)]~~ (10)(a).

~~[(12)]~~ (11) (a) A reception center 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

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shall complete an alcohol training and education seminar.

~~[(13)]~~ (12) A staff person of a reception center licensee shall remain at an event at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

~~[(14)]~~ (13) A reception center 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.

~~[(15)]~~ (14) Except as provided in Subsection ~~[(16)]~~ (15), a reception center licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from an area that is:

(i) 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:

(A) not readily visible to a patron; and

(B) not accessible by a patron; and

(ii) apart from an area used:

(A) for staging; or

(B) as a lobby or waiting area;

(b) the reception center licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection ~~[(15)]~~ (14)(a); or

(ii) in an area not described in Subsection ~~[(15)]~~ (14)(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 ~~[(15)]~~ (14)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection ~~[(15)]~~ (14)(a); and

(c) any instrument or equipment used to dispense an alcoholic product is located in an area described in Subsection ~~[(15)]~~ (14)(a).

~~[(16)]~~ (15) A reception center licensee may dispense an alcoholic product from a mobile serving area that:

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

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

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

~~[(17)]~~ (16) (a) A reception center licensee may not have an event on the licensed premises except pursuant to a contract between a third party host of the event and the reception center licensee under which the reception center licensee provides an alcoholic product sold, offered for sale, or furnished at an event.

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

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

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

(c) The commission may by rule define what constitutes a "third-party host" for purposes of this Subsection ~~[(17)]~~ (16) so that a reception center licensee and the third-party host are not owned by or operated by the same persons, except that the rule shall permit a reception center licensee to host an event for an immediate family member of the reception center licensee.

~~[(18)]~~ (17) A reception center licensee shall have culinary facilities that are:

(a) adequate to prepare a full meal; and

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

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

~~[(19)]~~ (18) (a) Except as provided in Subsection ~~[(19)]~~ (18)(b), a reception center licensee may not operate an event:

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

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

(b) A reception center licensee may operate an event described in Subsection ~~[(19)]~~ (18)(a) if the event is hosted:

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

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

Section 34. Section **32B-6-902** is amended to read:

32B-6-902. Definitions.

(1) As used in this part:

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(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 the dining area and any 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 beer is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of beer.

(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)](11)(a)(ii); and

(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or

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

(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

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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 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) "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 35. Section **32B-6-903** is amended to read:

32B-6-903. Commission's power to issue beer-only restaurant license.

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

(2) (a) The commission may issue a beer-only restaurant license to establish beer-only restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a beer-only restaurant.

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

(3) (a) Only one beer-only restaurant license is required for each building or resort facility owned or leased by the same person.

(b) A separate license is not required for each beer-only restaurant license dispensing location in the same building or on the same resort premises owned or operated by the same person.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a beer-only restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a beer-only restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include a service charge.

Section 36. Section **32B-6-905** is amended to read:

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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)~~] (11)(a).

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

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

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

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer 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.]~~

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~~[(8)]~~ (7) (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)]~~ (8) A patron may not have more than two beers at a time before the patron.

~~[(10)]~~ (9) 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)]~~ (10) (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)]~~ (10)(a), at a grandfathered bar structure, a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished a beer; and
- (iii) consume a beer.

(c) Except as provided in Subsection ~~[(11)]~~ (10)(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.

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~~[(12)]~~ (11) 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)]~~ (11)(a); or

(ii) in an area not described in Subsection ~~[(12)]~~ (11)(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)]~~ (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection ~~[(12)]~~ (11)(a); and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

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

~~[(14)]~~ (13) Except as provided in Subsection 32B-6-905.1~~[(16)]~~(15) and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section 37. 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

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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; or
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(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 beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(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.

(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.

~~[(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.]~~

~~[(7) (6) (a) A beer-only restaurant licensee may not furnish beer except after:~~

~~(i) the patron to whom the beer-only restaurant licensee 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 ~~[(7) (6)(b)~~, consume the food at the same~~

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location where the patron is seated and 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 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.

~~[(8)]~~ (7) 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.

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

~~[(10)]~~ (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.

~~[(11)]~~ (10) (a) Except as provided in Subsection ~~[(11)]~~ (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 beer-only restaurant licensee]:~~

~~[(A) in accordance with Subsection 32B-5-308(2), or]~~

(A) at least 16 years of age and working as an employee of the beer-only restaurant licensee; or

(B) ~~[to perform]~~ performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

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(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.

~~[(12)]~~ (11) 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 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 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) any instrument or equipment used to dispense the beer is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) (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-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(14)]~~ (13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

~~[(15)]~~ (14) (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.

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

~~[(16)]~~ (15) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(16)]~~ (15)(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 38. Section 32B-7-202 is amended to read:

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

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

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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.

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

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

(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;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6) (a) Subject to the other provisions of this Subsection (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 (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

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(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 (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 (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 (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (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 (6)(a)(i) apply on and after August 1, 2017.

(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 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

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(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (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 (7).

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

Section ~~{38}~~39. Section **32B-7-407** is enacted to read:

32B-7-407. Licensing at certain package agencies.

(1) Subject to Subsection (2), the commission may issue an off-premise beer retailer state license for a premises that is a package agency located at a brewery manufacturing facility.

(2) An off-premise beer retailer state licensee described in Subsection (1) may not sell beer:

(a) other than beer that is the product of the brewery manufacturing licensee that holds the package agency located on the premises; or

(b) at a time other than a time a package agency may sell liquor under Subsection 32B-2-605(13).

Section ~~{39}~~40. Section **32B-7-408** is enacted to read:

32B-7-408. Master off-premise beer retailer state license.

(1) (a) The commission may issue a master off-premise beer retailer state license that authorizes a person to store, sell, or offer for sale beer for consumption off the person's premises at multiple locations as off-premise beer retailers if the person applying for the master off-premise beer retailer state license:

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(i) owns each of the off-premise beer retailers;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of an off-premise beer retailer under the master off-premise beer retailer state license separately meets the requirements of this part; and

(iii) the master off-premise beer retailer state license includes at least five off-premise beer retailer locations.

(b) The person seeking a master off-premise beer retailer state license shall designate which off-premise beer retailer locations the person seeks to have under the master off-premise beer retailer state license.

(c) An off-premise beer retailer location under a master off-premise beer retailer state license is considered separately licensed for purposes of this title.

(2) (a) A master off-premise beer retailer state license expires on the last day of February each year.

(b) To renew a person's master off-premise beer retailer state license, a person shall comply with the renewal requirements of Section 32B-7-403 by no later than January 31 of the year in which the off-premise beer retailer state license expires.

(3) (a) The nonrefundable application fee for a master off-premise beer retailer state license is \$75.

(b) The initial license fee for a master off-premise beer retailer state license is:

(i) \$1,100 plus a separate initial license fee for each newly licensed off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-402(3); and

(ii) refundable if the commission does not issue the master off-premise beer retailer state license.

(c) The renewal fee for a master off-premise beer retailer state license is \$300 plus a separate renewal fee for each off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-403(2)(b).

(4) A new location may be added to a master off-premise beer retailer state license after the master off-premise beer retailer state license is issued if, including payment of the initial license fee, the location separately meets the requirements of this part.

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(5) (a) A master off-premise beer retailer state licensee shall notify the department of a change in the persons managing a location covered by a master off-premise beer retailer state license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master off-premise beer retailer state licensee at the time of the change;
or

(ii) within 30 days of the change, if the off-premise beer retailer state licensee is transferring management personnel from one location to another location covered by the master off-premise beer retailer state license.

(b) A location covered by a master off-premise beer retailer state license shall keep its own records on its premises so that the department may audit the records.

(c) A master off-premise beer retailer state licensee may not transfer beer between different locations covered by the master off-premise beer retailer state license.

(6) (a) If there is a violation of this title at a location covered by a master off-premise beer retailer state license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master off-premise beer retailer state license;

(ii) individual staff of the location under the master off-premise beer retailer state license; or

(iii) a combination of persons or locations described in Subsections (6)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (6)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master off-premise beer retailer state licensee or individual staff of the master off-premise beer retailer state licensee if during a period beginning on March 1 and ending the last day of February:

(i) at least 25% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have violated this title.

(7) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, to establish how a person may apply for a master off-premise beer retailer state license under this section.

Section ~~{40}~~41. Section **32B-11-503** is amended to read:

32B-11-503. Specific authority and operational requirements for brewery manufacturing license.

(1) A brewery manufacturing license allows a brewery manufacturing licensee to:

(a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;

(b) sell heavy beer and a flavored malt beverage to:

(i) the department;

(ii) a military installation; or

(iii) an out-of-state customer;

(c) sell beer to a beer wholesaler licensee;

(d) in the case of a small brewer, in accordance with Subsection (5), sell beer manufactured by the small brewer to:

(i) a retail licensee;

(ii) an off-premise beer retailer; or

(iii) an event permittee; ~~and~~

(e) warehouse on its premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes~~[;]~~; and

(f) if the brewery manufacturing licensee holds two or more brewery manufacturing licenses, transport beer, heavy beer, or flavored malt beverage from one of the brewery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) transferring the beer, heavy beer, or flavored malt beverage for storage at a licensed premises of the brewery manufacturing licensee that is at a package agency.

(2) A brewery manufacturing licensee may not sell the following to a person within the state except the department or a military installation:

(a) heavy beer; or

(b) a flavored malt beverage.

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(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;

(c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.

(4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except under the circumstances described in this Subsection (4).

(a) A brewery manufacturing licensee may allow its on-duty staff to taste the alcoholic product that the brewery manufacturing licensee manufactures on its premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise.

(b) A brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:

(i) beer;

(ii) heavy beer; or

(iii) a flavored malt beverage.

(c) A brewery manufacturing licensee may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority.

(d) A brewery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

(5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer to be sold to a person described in Subsection (1)(d) if the small brewer:

(i) (A) (I) is located in this state; and

(II) holds a brewery manufacturing license; or

(B) (I) is located outside this state; and

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(II) holds a certificate of approval to sell beer in this state; and

(ii) sells beer manufactured by the small brewer directly to a person described in Subsection (1)(d).

(b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless the beer:

(i) is manufactured by the small brewer; and

(ii) is first placed in the small brewer's warehouse facility in this state.

(c) (i) A small brewer warehouse shall make and maintain complete beer importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.

(ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and

(B) the State Tax Commission.

(iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.

(6) Subject to Subsection (7):

(a) A brewery manufacturing licensee may not sell beer in this state except under a written agreement with a beer wholesaler licensee in this state.

(b) An agreement described in Subsection (6)(a) shall:

(i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;

(ii) designate the one or more brands that may be distributed in the sales territory; and

(iii) set forth the exact geographical area of the sales territory.

(c) A brewery manufacturing licensee may have more than one agreement described in this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.

(d) A brewery manufacturing licensee may not enter into an agreement with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.

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(7) A small brewer is not subject to the requirements of Subsection (6).

Section ~~{41}~~42. Section 32B-17-101 is enacted to read:

CHAPTER 17. LIQUOR TRANSPORT LICENSE ACT

Part 1. General Provisions

32B-17-101. Title.

This chapter is known as the "Liquor Transport License Act."

Section ~~{42}~~43. Section 32B-17-201 is enacted to read:

Part 2. Liquor Transport License Process

32B-17-201. Commission's power to issue liquor transport license.

(1) (a) Before a person other than the retail licensee may pickup and deliver liquor to a retail licensee, the person shall obtain a liquor transport license issued by the commission in accordance with this chapter.

(b) A violation of Subsection (1)(a) is a class A misdemeanor.

(2) The commission may issue a liquor transport license for the pickup and delivery of liquor to a retail licensee.

(3) A liquor transport license entitles the holder to:

(a) pickup liquor from a package agency or state store on behalf of a retail licensee using the licensee's funds; and

(b) transport and deliver the liquor directly to a retail licensee.

(4) Nothing in this chapter prohibits a retail licensee from picking up liquor purchased by the retail licensee and transporting the liquor to the retail licensee's licensed premises in accordance with the other provisions of this title.

Section ~~{43}~~44. Section 32B-17-202 is enacted to read:

32B-17-202. Application requirements for liquor transport license.

To obtain a liquor transport license, a person shall submit to the department:

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

(2) a nonrefundable \$300 application fee;

(3) an initial license fee of \$2,300 that is refundable if the commission does not issue a liquor transport license;

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

(5) a bond as specified in Section 32B-17-206;

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(6) evidence that the person carries liability insurance in an amount and form satisfactory to the department; and

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

Section ~~{44}~~45. Section 32B-17-203 is enacted to read:

32B-17-203. Renewal requirements for liquor transport license.

(1) A liquor transport license expires on May 31 of each year.

(2) To renew a liquor transport license, a person shall submit to the department by no later than April 30 of the year in which the license expires:

(a) a completed renewal application in a form prescribed by the department;

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

(c) a bond as specified in Section 32B-17-206;

(d) evidence that the person carries liability insurance in an amount and form satisfactory to the department;

(e) a report that includes the following information for the period since the liquor transport licensee obtained or renewed a liquor transport license:

(i) the number of deliveries the liquor transport licensee made to each type of retail licensee;

(ii) each state store and each package agency from which the liquor transport licensee picked up liquor as a liquor transport licensee;

(iii) any breakage or shrinkage; and

(iv) any other information required by the department; and

(f) a \$1,200 renewal fee.

(3) Failure to meet the renewal requirements described in this section results in an automatic forfeiture of the liquor transport license effective on the date the existing liquor transport license expires.

Section ~~{45}~~46. Section 32B-17-204 is enacted to read:

32B-17-204. Qualifications for liquor transport license.

(1) The commission may not issue a liquor transport license to a person who is disqualified under Section 32B-1-304.

(2) If a person to whom a liquor transport license is issued under this chapter no longer possesses the qualifications required by this title for obtaining the liquor transport license, the

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commission may suspend or revoke the person's liquor transport license.

Section ~~{46}~~47. Section **32B-17-205** is enacted to read:

32B-17-205. Commission and department duties before issuing liquor transport license.

(1) (a) Before the commission may issue a liquor transport license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a liquor transport license should be issued.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing a liquor transport license, the commission shall:

(a) determine that the person filed a complete application that complies with Sections 32B-17-202 and 32B-17-204;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the person's ability to manage and operate a liquor transport operation, including:

(i) management experience;

(ii) past related experience; and

(iii) the means the person intends to use to deliver liquor to retail licensees; and

(d) consider any other factor that the commission considers necessary.

Section ~~{47}~~48. Section **32B-17-206** is enacted to read:

32B-17-206. Bond for liquor transport license.

(1) (a) A liquor transport licensee shall post a cash bond or surety bond in the penal sum of \$10,000 payable to the department.

(b) A liquor transport licensee shall procure and maintain a bond in accordance with this section for as long as the liquor transport licensee operates as a liquor transport licensee.

(2) A bond posted under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon a liquor transport licensee's faithful compliance with this title and the rules of the commission.

(3) If a surety bond posted by a liquor transport licensee under this section is canceled due to the liquor transport licensee's negligence, the department may assess a \$300

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reinstatement fee.

(4) No part of a bond posted under this section may be withdrawn during the period the liquor transport license is in effect.

(5) (a) A bond posted under this section may be forfeited if the liquor transport license is revoked.

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

Section ~~{48}~~49. Section **32B-17-301** is enacted to read:

Part 3. Operational Requirements for Liquor Transport License

32B-17-301. General operational requirements for liquor transport license.

(1) (a) A liquor transport licensee and staff of the liquor transport licensee shall comply with this title and the rules of the commission.

(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 liquor transport licensee;

(ii) individual staff of a liquor transport licensee; or

(iii) both a liquor transport licensee and staff of the liquor transport licensee.

(2) A liquor transport licensee may not employ a minor to handle an alcoholic product.

(3) A liquor transport licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the liquor transport license to a person, regardless of whether done for monetary gain.

(4) (a) A liquor transport licensee may not deliver liquor to a person within the state except to a retail licensee.

(b) A violation of this Subsection (4) is a class A misdemeanor.

(5) The commission may prescribe by rule, consistent with this title, the general operational requirements of a liquor transport licensee.

Section ~~{49}~~50. Section **32B-17-302** is enacted to read:

32B-17-302. Notifying the department of change of ownership.

The commission may suspend or revoke a liquor transport license if a liquor transport licensee does not immediately notify the department of a change in:

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(1) ownership of the liquor transport service;

(2) for a corporate owner:

(a) the corporate officers or directors; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) the managers; or

(b) the members owing at least 20% of the limited liability company.

Section ~~50~~51. 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]~~ 32B-1-701;

(ii) retail staff as defined in Section ~~[32B-5-402]~~ 32B-1-701; 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

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retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) 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)~~] 32B-1-703(1) if the individual is described in 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); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(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

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(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online 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

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certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

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

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section [~~32B-5-403~~]
32B-1-702.

(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);

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(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Control;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(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

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guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

- (i) the curriculum established under this section; and
- (ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

- (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- (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 ~~51~~52. 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-1-407(3)(d) is repealed July 1, 2022.
- (3) Subsection 32B-1-604(4) is repealed June 1, 2018.

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- (4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.
- (5) Section 32B-6-205 is repealed July 1, 2022.
- (6) Subsection 32B-6-205.2~~[(+5)]~~(14) is repealed July 1, 2022.
- (7) Section 32B-6-205.3 is repealed July 1, 2022.
- (8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.
- (9) Section 32B-6-305 is repealed July 1, 2022.
- (10) Subsection 32B-6-305.2~~[(+5)]~~(14) is repealed July 1, 2022.
- (11) Section 32B-6-305.3 is repealed July 1, 2022.
- (12) Section 32B-6-404.1 is repealed July 1, 2022.
- (13) Section 32B-6-409 is repealed July 1, 2022.
- (14) Section 32B-6-605.1 is repealed July 1, 2019.
- (15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.
- (16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.
- (17) Section 32B-6-905 is repealed July 1, 2022.
- (18) Subsection 32B-6-905.1~~[(+6)]~~(15) is repealed July 1, 2022.
- (19) Section 32B-6-905.2 is repealed July 1, 2022.
- (20) Section 32B-7-303 is repealed ~~March~~ June 1, 2019.
- (21) Section 32B-7-304 is repealed ~~March~~ June 1, 2019.
- (22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section ~~52~~ 53. Repealer.

This bill repeals:

Section **32B-5-401, Title.**

Section 54. Coordinating H.B. 453 with S.B. 132 -- Superseding technical and substantive amendments.

If this H.B. 453 and S.B. 132, Beer Amendments, both pass and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsections 63I-2-232(20) and (21) in this bill supersede the amendments to Subsections 63I-2-232(20) and (21) in S.B. 132; and

(2) the Office of Legislative Research and General Counsel not implement the coordination clause affecting Subsection 32B-1-102(49) in S.B. 132.

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