

Representative Francis D. Gibson proposes the following substitute bill:

WINE SERVICES AND AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Alcoholic Beverage Control Act regarding wine purchasing and shipping.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits an individual to have wine purchased from a winery shipped or transported into or within the state under certain conditions;
- ▶ requires the department facilitate the delivery of wine shipped or transported into or within the state to the purchaser of the wine under certain conditions;
- ▶ establishes a markup for wine purchased from a winery and shipped or transported into or within the state;
- ▶ addresses department liability;
- ▶ permits the department to charge a fee to cover costs of facilitating delivery of wine;
- ▶ grants the commission rulemaking authority;
- ▶ removes the requirement that a person moving the person's residence into the state obtain department approval before bringing liquor for personal consumption into the state;



26 ▶ removes the requirement that a person who inherits liquor that is located outside the
27 state obtain department approval before bringing the liquor into the state; and

28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **32B-2-204**, as last amended by Laws of Utah 2019, Chapter 403

36 **32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403

37 **32B-2-503**, as last amended by Laws of Utah 2011, Chapters 307 and 334

38 **32B-2-601**, as last amended by Laws of Utah 2011, Chapter 307

39 **32B-2-605**, as last amended by Laws of Utah 2019, Chapter 403

40 **32B-4-414**, as enacted by Laws of Utah 2010, Chapter 276

41 ENACTS:

42 **32B-2-701**, Utah Code Annotated 1953

43 **32B-2-702**, Utah Code Annotated 1953

44 **32B-2-703**, Utah Code Annotated 1953

45 **32B-2-704**, Utah Code Annotated 1953



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

48 Section 1. Section **32B-2-204** is amended to read:

49 **32B-2-204. Powers and duties of the department -- Immunity.**

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

51 (a) listing and delisting a product;

52 (b) the procedures for testing a new product;

53 (c) purchasing policy;

54 (d) turnover requirements for a regularly coded product to be continued; and

55 (e) the disposition of discontinued, distressed, or unsaleable merchandise.

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

57 (i) as the governor may require; and
58 (ii) annually by no later than November 30, for the fiscal year ending June 30 of the
59 year in which the report is made.

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

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

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

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

67 (iv) any other information requested by the governor.

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

70 (3) The department shall maintain insurance against loss on each motor vehicle
71 operated by it on any public highway. A motor vehicle shall be covered for:

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

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

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

80 (b) An action may not be taken:

81 (i) against the commission; or

82 (ii) in the name of a commissioner.

83 (5) (a) [The] Except as provided in Subsection (5)(b), the department is liable to
84 respond in damages in a case if a private corporation under the same circumstances would be
85 liable.

86 (b) The department is not liable for any damages:

87 (i) to wine shipped or transported under Part 7, Approved Wine Purchasing and

88 Shipping; or

89 (ii) arising from the contents of a package shipped or transported under Part 7,

90 Approved Wine Purchasing and Shipping.

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

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

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

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

99 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

100 (1) For purposes of this section:

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

102 (A) the cost of the product; and

103 (B) inbound shipping costs incurred by the department.

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

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

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

110 (2) Except as provided in [~~Subsection (3)~~] Subsections (3) and (4):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

146 (4) Wine that an approved wine purchaser, as defined in Section 32B-2-701, purchases
147 in accordance with Part 7, Approved Wine Purchasing and Shipping, shall be marked up in an
148 amount not less than 88% above the wine price as defined in Section 32B-2-701.

149 [~~4~~] (5) The department shall deposit 10% of the total gross revenue from sales of

150 liquor with the state treasurer to be credited to the Uniform School Fund and used to support
151 the school lunch program administered by the State Board of Education under Section
152 [53E-3-510](#).

153 [~~5~~] (6) This section does not prohibit the department from selling discontinued items
154 at a discount.

155 Section 3. Section **32B-2-503** is amended to read:

156 **32B-2-503. Operational requirements for a state store.**

157 (1) (a) A state store shall display in a prominent place in the store a sign in large letters
158 that consists of text in the following order:

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

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

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

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

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

167 (b) (i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different
168 font style than the text described in Subsections (1)(a)(iv) and (v).

169 (ii) The warning statements in the sign described in Subsection (1)(a) shall be in the
170 same font size.

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

173 (2) [~~A~~] Except as permitted under Part 7, Approved Wine Purchasing and Shipping, a
174 state store may not sell, offer for sale, or furnish liquor except at a price fixed by the
175 commission.

176 (3) A state store may not sell, offer for sale, or furnish liquor to:

177 (a) a minor;

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

179 (c) a known interdicted person; or

180 (d) a known habitual drunkard.

181 (4) (a) A state store employee may not:
182 (i) consume an alcoholic product on the premises of a state store; or
183 (ii) allow any person to consume an alcoholic product on the premises of a state store.
184 (b) A violation of this Subsection (4) is a class B misdemeanor.
185 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state
186 store, and a state store may not be kept open for the sale of liquor:
187 (i) on Sunday; or
188 (ii) on a state or federal legal holiday.
189 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and
190 a state store may be open for the sale of liquor, only on a day and during hours that the
191 commission directs by rule or order.
192 (6) (a) A minor may not be admitted into, or be on the premises of, a state store unless
193 accompanied by a person who is:
194 (i) 21 years of age or older; and
195 (ii) the minor's parent, legal guardian, or spouse.
196 (b) A state store employee that has reason to believe that a person who is on the
197 premises of a state store is under the age of 21 and is not accompanied by a person described in
198 Subsection (6)(a) may:
199 (i) ask the suspected minor for proof of age;
200 (ii) ask the person who accompanies the suspected minor for proof of age; and
201 (iii) ask the suspected minor or the person who accompanies the suspected minor for
202 proof of parental, guardianship, or spousal relationship.
203 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the
204 person who accompanies the suspected minor into the state store if the suspected minor or
205 person fails to provide information specified in Subsection (6)(b).
206 (d) A state store employee shall require a suspected minor and the person who
207 accompanies the suspected minor into the state store to immediately leave the premises of the
208 state store if the suspected minor or person fails to provide information specified in Subsection
209 (6)(b).
210 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed
211 container.

212 (b) A person may not open a sealed container on the premises of a state store.

213 (8) On or after October 1, 2011, a state store may not sell, offer for sale, or furnish
214 heavy beer in a sealed container that exceeds two liters.

215 Section 4. Section **32B-2-601** is amended to read:

216 **32B-2-601. Commission's power to issue package agency.**

217 (1) (a) The commission may, when the commission considers proper, issue authority to
218 operate as a package agency by directing the department to enter into a package agency
219 agreement with a person to sell, offer for sale, or furnish liquor in sealed containers from
220 premises other than those owned or leased by the state.

221 (b) The commission shall authorize a person to operate a package agency by issuing a
222 record that designates the person in charge of the package agency as a "package agent."

223 (2) (a) Subject to this Subsection (2), the commission may not issue a total number of
224 package agencies that at any time exceeds the number determined by dividing the population of
225 the state by 18,000.

226 (b) (i) The commission may issue a seasonal package agency in an area the commission
227 considers proper.

228 (ii) A seasonal package agency shall be for a period of six consecutive months.

229 (iii) A seasonal package agency issued for operation during a summer time period is
230 known as a "Seasonal A" package agency. The period of operation for a Seasonal A package
231 agency shall:

232 (A) begin on May 1; and

233 (B) end on October 31.

234 (iv) A seasonal package agency issued for operation during a winter time period is
235 known as a "Seasonal B" package agency. The period of operation for a Seasonal B package
236 agency shall:

237 (A) begin on November 1; and

238 (B) end on April 30.

239 (v) In determining the number of package agencies that the commission may issue
240 under this section:

241 (A) a seasonal package agency is counted as one-half of one package agency; and

242 (B) each Seasonal A package agency shall be paired with a Seasonal B package agency.

243 (c) (i) If the location, design, and construction of a hotel may require more than one
244 package agency sales location to serve the public convenience, the commission may authorize a
245 single package agent to sell liquor at as many as three locations within the hotel under one
246 package agency if:

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

248 (B) all locations under the package agency are:

249 (I) within the same hotel; and

250 (II) on premises that are managed or operated, and owned or leased, by the package
251 agent.

252 (ii) A facility other than a hotel shall have a separate package agency for each location
253 where liquor may be sold, offered for sale, or furnished.

254 (3) (a) A package agent, under the direction of the department, is responsible for
255 implementing and enforcing this title and the rules adopted under this title to the extent this
256 title and the rules relate to the conduct of the package agency and a package agency's sale or
257 furnishing of liquor.

258 (b) (i) A package agent may not be a state employee.

259 (ii) A package agent may not be construed to be a state employee or otherwise entitled
260 to any benefit of employment from the state.

261 (c) A package agent, when selling or furnishing liquor from a package agency, is
262 considered an agent of the state only to the extent specifically expressed in the package agency
263 agreement.

264 (4) The commission may prescribe by rule one or more types of package agencies
265 issued under this part that are consistent with this title.

266 Section 5. Section **32B-2-605** is amended to read:

267 **32B-2-605. Operational requirements for package agency.**

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

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

272 (c) (i) If a package agent or staff of the package agent violates this title, rules under this
273 title, or the package agency agreement, the department may take any action against the package

274 agent that is allowed by the package agency agreement.

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

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

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

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

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

285 (i) the package agent; or

286 (ii) an individual designated by the package agent.

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

288 (i) an employee of the package agent; and

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

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

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

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

295 (f) A package agent shall:

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

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

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

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

304 (b) A package agent that displays or stores liquor at a location visible to the public

305 shall display in a prominent place in the package agency a sign in large letters that consists of
306 text in the following order:

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

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

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

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

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

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

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

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

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

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

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

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

331 (7) [A] Except as permitted under Part 7, Approved Wine Purchasing and Shipping, a
332 package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the
333 commission.

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

335 (a) a minor;

- 336 (b) a person actually, apparently, or obviously intoxicated;
- 337 (c) a known interdicted person; or
- 338 (d) a known habitual drunkard.
- 339 (9) (a) A package agency may not employ a minor to handle liquor.
- 340 (b) (i) Staff of a package agency may not:
- 341 (A) consume an alcoholic product on the premises of a package agency; or
- 342 (B) allow any person to consume an alcoholic product on the premises of a package
- 343 agency.
- 344 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.
- 345 (10) (a) A package agency may not close or cease operation for a period longer than 72
- 346 hours, unless:
- 347 (i) the package agency notifies the department in writing at least seven days before the
- 348 closing; and
- 349 (ii) the closure or cessation of operation is first approved by the department.
- 350 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
- 351 agency shall immediately notify the department by telephone.
- 352 (c) (i) The department may authorize a closure or cessation of operation for a period
- 353 not to exceed 60 days.
- 354 (ii) The department may extend the initial period an additional 30 days upon written
- 355 request of the package agency and upon a showing of good cause.
- 356 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 357 commission approval.
- 358 (d) The notice required by Subsection (10)(a) shall include:
- 359 (i) the dates of closure or cessation of operation;
- 360 (ii) the reason for the closure or cessation of operation; and
- 361 (iii) the date on which the package agency will reopen or resume operation.
- 362 (e) Failure of a package agency to provide notice and to obtain department
- 363 authorization before closure or cessation of operation results in an automatic termination of the
- 364 package agency agreement effective immediately.
- 365 (f) Failure of a package agency to reopen or resume operation by the approved date
- 366 results in an automatic termination of the package agency agreement effective on that date.

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

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

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

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

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

376 (A) on Sunday; or

377 (B) on a state or federal legal holiday.

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

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

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

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

387 (A) a full-service restaurant license;

388 (B) a limited-service restaurant license;

389 (C) a beer-only restaurant license;

390 (D) a dining club license; or

391 (E) a bar license;

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

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

395 (v) the manufacturing facility:

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

397 (B) operates the restaurant, dining club, or bar;

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

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

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

405 (A) a resort licensee; or

406 (B) a hotel licensee.

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

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

412 (i) 21 years of age or older; and

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

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

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

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

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

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

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

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

429 container.

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

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

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

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

436 (iii) subject to:

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

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

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

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

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

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

449 (a) physical facilities;

450 (b) conditions of operation;

451 (c) hours of operation;

452 (d) inventory levels;

453 (e) payment schedules;

454 (f) methods of payment;

455 (g) premises security; and

456 (h) any other matter considered appropriate by the commission.

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

458 Section 6. Section **32B-2-701** is enacted to read:

459 **Part 7. Approved Wine Purchasing and Shipping**

460 32B-2-701. Definitions.

461 (1) "Approved wine purchaser" means an individual who registers in accordance with
462 this part to purchase wine.

463 (2) (a) "Wine price" means the price an approved wine purchaser pays a winery for
464 wine.

465 (b) "Wine price" does not include any tax or shipping costs the approved wine
466 purchaser pays in connection with a wine purchase.

467 (3) "Winery" means a manufacturer of wine, regardless of whether the manufacturer is
468 located in the state.

469 Section 7. Section **32B-2-702** is enacted to read:

470 32B-2-702. Authorized wine purchasers.

471 (1) An individual may have wine the individual purchases directly from a winery
472 shipped or transported into or within this state, if the individual:

473 (a) registers as an approved wine purchaser in accordance with this part; and

474 (b) ships or transports or causes to be shipped or transported the wine in accordance
475 with this part.

476 (2) To register as an approved wine purchaser, an individual shall submit to the
477 department an application that includes:

478 (a) proof of age;

479 (b) a local address;

480 (c) a designation of the state store or package agency at which the individual would
481 prefer to collect purchased wine; and

482 (d) any other information that the department requires.

483 (3) An approved wine purchaser who purchases wine from a winery may have the wine
484 shipped or transported into or within this state, if:

485 (a) the wine is:

486 (i) for personal household use and consumption; and

487 (ii) not for:

488 (A) sale;

489 (B) resale; or

490 (C) consumption on premises licensed by the commission; and

491 (b) the approved wine purchaser:

492 (i) follows each labeling or other requirement the department establishes under Section
493 32B-2-703 to match the shipment of wine to the authorized wine purchaser; and

494 (ii) provides the department all information the department requests to verify the wine
495 price of the wine.

496 (4) An approved wine purchaser who has wine shipped or transported in accordance
497 with Subsection (3) shall upon collection of the wine:

498 (a) provide identification as the approved wine purchaser who purchased the wine; and

499 (b) pay the department:

500 (i) the markup described in Subsection 32B-2-304(4); and

501 (ii) a fee the department charges in accordance with Section 32B-2-705.

502 Section 8. Section 32B-2-703 is enacted to read:

503 **32B-2-703. Department duties.**

504 (1) The department shall facilitate the delivery of wine that an approved wine
505 purchaser ships or transports or causes to be shipped or transported to or within this state to the
506 approved wine purchaser in accordance with this part.

507 (2) The department shall:

508 (a) establish an application process for an individual to register as an approved wine
509 purchaser;

510 (b) establish a system that matches a shipment of wine to the authorized wine
511 purchaser who purchased the wine, that may include labeling requirements, the use of an
512 identification code for each authorized wine purchaser, or some other method;

513 (c) deliver wine shipped or transported to the department to the appropriate state store
514 or package agency; and

515 (d) notify an authorized wine purchaser when the wine is ready for the authorized wine
516 purchaser to collect from the state store or package agency described in Subsection (2)(c).

517 (3) The department may refuse to accept wine shipped or transported to the department
518 in accordance with this part, if the department has reason to believe the wine is damaged.

519 (4) If an approved wine purchaser does not collect wine shipped or transported under
520 this part within 30 days after the day on which the department notifies the authorized wine
521 purchaser as described in Subsection 32B-2-703, the department may include the wine in the

522 department's inventory.

523 Section 9. Section **32B-2-704** is enacted to read:

524 **32B-2-704. Fees -- Rulemaking.**

525 (1) The department may charge a handling fee for facilitating the delivery of wine
526 shipped or transported under this part:

527 (a) in accordance with Section [63J-1-504](#); and

528 (b) to cover costs to the department for facilitating the delivery.

529 (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
530 Administrative Rulemaking Act, for the administration of this part, including rules designating
531 which package agencies may receive from the department wine shipped or transported under
532 this part.

533 Section 10. Section **32B-4-414** is amended to read:

534 **32B-4-414. Unlawful possession -- Exceptions.**

535 ~~[(+)]~~ A person may not possess liquor within this state unless authorized by this title or
536 the rules of the commission, except that:

537 ~~[(a)]~~ (1) a person who clears United States Customs when entering this country may
538 possess for personal consumption and not for sale or resale, a maximum of ~~[two]~~ nine liters of
539 liquor purchased from without the United States;

540 ~~[(b)]~~ (2) a person who moves the person's residence to this state from outside of this
541 state may possess for personal consumption and not for sale or resale, liquor previously
542 purchased outside the state and brought into this state during the move, if the person~~[(+)]~~
543 ~~obtains department approval before moving the liquor into the state; and (ii)]~~ pays the
544 department a reasonable administrative handling fee as determined by the commission;

545 ~~[(c)]~~ (3) a person who inherits liquor as a beneficiary of an estate that is located outside
546 the state, may possess the liquor and transport or cause the liquor to be transported into the
547 state if the person~~[(+)]~~

548 ~~[(i) obtains department approval before moving the liquor into the state;]~~

549 ~~[(ii)]~~ (a) provides sufficient documentation to the department to establish the person's
550 legal right to the liquor as a beneficiary; and

551 ~~[(iii)]~~ (b) pays the department a reasonable administrative handling fee as determined
552 by the commission; or

553 ~~[(d)]~~ (4) a person may transport or possess liquor if:
554 ~~[(i)]~~ (a) the person transports or possesses the liquor:
555 ~~[(A)]~~ (i) for personal household use and consumption; and
556 ~~[(B)]~~ (ii) not for:
557 ~~[(i)]~~ (A) sale;
558 ~~[(ii)]~~ (B) resale;
559 ~~[(iii)]~~ (C) gifting to another; or
560 ~~[(iv)]~~ (D) consumption on premises licensed by the commission;
561 ~~[(i)]~~ (b) the liquor is purchased from a store or facility on a military installation; and
562 ~~[(ii)]~~ (c) the maximum amount the person transports or possesses under this
563 Subsection ~~[(1)(d)]~~ (4) is:
564 ~~[(A)]~~ (i) two liters of:
565 ~~[(i)]~~ (A) spirituous liquor;
566 ~~[(ii)]~~ (B) wine; or
567 ~~[(iii)]~~ (C) a combination of spirituous liquor and wine; and
568 ~~[(B)(i)]~~ (ii) (A) one case of heavy beer that does not exceed 288 ounces; or
569 ~~[(ii)]~~ (B) one case of a flavored malt beverage that does not exceed 288 ounces.
570 ~~[(2)(a) Approval under Subsection (1)(b) may be obtained by a person who:]~~
571 ~~[(i) is transferring the person's permanent residence to this state; or]~~
572 ~~[(ii) maintains separate residences both in and out of this state.]~~
573 ~~[(b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more~~
574 ~~than one time.]~~