

## HB0157S02 compared with HB0157

~~{deleted text}~~ shows text that was in HB0157 but was deleted in HB0157S02.

inserted text shows text that was not in HB0157 but was inserted into HB0157S02.

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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: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends ~~{and enacts provisions in }~~the Alcoholic Beverage Control Act regarding wine ~~{and a state wine order}~~purchasing and ~~{delivery service}~~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 of Alcoholic Beverage Control to establish a wine order and delivery service;~~
- ▶ ~~outlines requirements for the wine order and delivery service;~~
- ▶ grants} department facilitate the delivery of wine shipped or transported into or

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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 ~~{ to administer the wine order and delivery service }~~;
- ▶ 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;
- ▶ removes the requirement that a person who inherits liquor that is located outside the state obtain department approval before bringing the liquor into the state; and
- ▶ ~~{ raises the amount of wine purchased from without the United States that a person who clears customs may bring into the state }~~ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

ENACTS:

32B-2-701, Utah Code Annotated 1953

32B-2-702, Utah Code Annotated 1953

32B-2-703, Utah Code Annotated 1953

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32B-2-704, Utah Code Annotated 1953

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

Section 1. 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 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,

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

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

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

(ii) arising from the contents of a package shipped or transported under Part 7, Approved Wine Purchasing and Shipping.

(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 2. 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.

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

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

(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:

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- (i) a small brewer manufactures the heavy beer; and
- (ii) the small brewer applies to the department for a reduced markup.
- (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)

pursuant to a federal or other verifiable production report.

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

~~(4)~~(5) 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)~~(6) This section does not prohibit the department from selling discontinued items at a discount.

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

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

(1) (a) A state store shall display in a prominent place in the store 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."

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

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

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

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

(3) A state store 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.

(4) (a) A state store employee may not:

- (i) consume an alcoholic product on the premises of a state store; or
- (ii) allow any person to consume an alcoholic product on the premises of a state store.

(b) A violation of this Subsection (4) is a class B misdemeanor.

(5) (a) Sale or delivery of liquor may not be made on or from the premises of a state store, and a state store may not be kept open for the sale of liquor:

- (i) on Sunday; or
- (ii) on a state or federal legal holiday.

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

(6) (a) A minor may not be admitted into, or be on the premises of, a state store 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 state store employee that has reason to believe that a person who is on the premises of a state store is under the age of 21 and is not accompanied by a person described in Subsection (6)(a) may:

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

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(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 state store employee shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the state store if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(d) A state store employee shall require a suspected minor and the person who accompanies the suspected minor into the state store to immediately leave the premises of the state store if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed container.

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

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

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

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

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

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

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

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

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

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



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agency shall:

(A) begin on May 1; and

(B) end on October 31.

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

(A) begin on November 1; and

(B) end on April 30.

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

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

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

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

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

(B) all locations under the package agency are:

(I) within the same hotel; and

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

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

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

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

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

(c) A package agent, when selling or furnishing liquor from a package agency, is

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considered an agent of the state only to the extent specifically expressed in the package agency agreement.

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

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

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

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

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

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

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

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

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

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

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

(i) the package agent; or

(ii) an individual designated by the package agent.

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

(i) an employee of the package agent; and

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

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

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

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(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 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

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

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

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

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

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

- (A) consume an alcoholic product on the premises of a package agency; or
- (B) allow any person to consume an alcoholic product on the premises of a package

agency.

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

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

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

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

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

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

(ii) The department may extend the initial period an additional 30 days upon written

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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] the package agency's operations from one location to another location without prior written approval of the commission.

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

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

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

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

(A) on Sunday; or

(B) on a state or federal legal holiday.

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

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

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

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing

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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 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:

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(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

(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~~ LA 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

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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 ~~{H}~~6. Section **32B-2-701** is enacted to read:

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

#### **32B-2-701. Definitions.**

~~{As used in this part, "valid address" means an address that:~~

~~(1) is in the state;~~

~~(2) is not associated with licensed premises; and~~

~~(3) is not a community location.~~

~~Section 2}{(1) "Approved wine purchaser" means an individual who registers in accordance with this part to purchase wine.~~

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

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

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

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

#### **32B-2-702. ~~{ Department wine order and delivery service:~~**

~~(1) The commission shall establish a wine order and delivery service as described in this part.~~

~~(2) The department's wine order and delivery service shall allow a person to:~~

~~(a) order wine through the department; and~~



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- ~~(b) (i) pick up wine ordered through the department from:~~
    - ~~(A) a state store; or~~
    - ~~(B) a package agency; or~~
  - ~~(ii) have the department deliver wine ordered through the department to a valid address:~~
    - ~~(3) The department shall require an individual placing a wine order to:~~
      - ~~(a) (i) enter the individual's state-issued identification number through an electronic platform; or~~
      - ~~(ii) show proof of age to department staff taking the order in person; and~~
    - ~~(b) pay for the wine order in full, including:~~
      - ~~(i) the cost of the wine; and~~
      - ~~(ii) if applicable, the cost of delivering the wine to the valid address.~~
  - ~~(4) (a) The department may not deliver wine to a valid address unless the wine is first delivered to:~~
    - ~~(i) a state store; or~~
    - ~~(ii) a package agency.~~
  - ~~(b) After a wine order is delivered to a state store or package agency} Authorized wine purchasers.~~
- (1) An individual may have wine the individual purchases directly from a winery shipped or transported into or within this state, if the individual:
- (a) registers as an approved wine purchaser in accordance with this {Subsection (4)} part; and
  - (b) ships or transports or causes to be shipped or transported the wine in accordance with this part.
- (2) To register as an approved wine purchaser, an individual shall submit to the department {shall:
- ~~(i) notify the individual who ordered the wine that the wine is available for pickup from} an application that includes:~~
- (a) proof of age;
  - (b) a local address;
  - (c) a designation of the state store or package agency {; or

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~~(ii) deliver the wine to the valid address provided in the wine order,} at which the individual would prefer to collect purchased wine; and~~

(d) any other information that the department requires.

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

(a) the wine is:

(i) for personal household use and consumption; and

(ii) not for:

(A) sale;

(B) resale; or

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

(b) the approved wine purchaser:

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

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

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

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

(b) pay the department:

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

(ii) a fee the department charges in accordance with Section ~~{32B-2-703}~~ 32B-2-705.

Section ~~{3}~~8. Section **32B-2-703** is enacted to read:

**32B-2-703. ~~{ Delivery of wine to a valid address:~~**

~~(1) An individual transporting wine ordered through the wine order and delivery service to a valid address may not:~~

~~(a) open or allow to be opened a container containing the wine; or~~

~~(b) consume, use, or allow to be consumed or used, the wine.~~

~~(2) Before furnishing wine ordered through the wine order and delivery service to an individual at a valid address, the} **Department duties.**~~

(1) The department shall ~~{require}~~ facilitate the ~~{signature of an individual who is at~~

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~~least 21 years of age~~ delivery of wine that an approved wine purchaser ships or transports or causes to be shipped or transported to or within this state to the approved wine purchaser in accordance with this part.

(2) The department shall:

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

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

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

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

(3) The department may ~~not furnish wine ordered through the wine order and delivery service to:~~

~~— (a) a minor;~~

~~— (b) an individual actually, apparently, or obviously intoxicated;~~

~~— (c) a known interdicted individual; or~~

~~— (d) a known habitual drunkard.~~

~~Section 4} refuse to accept wine shipped or transported to the department in accordance with this part, if the department has reason to believe the wine is damaged.~~

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

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

**32B-2-704.** ~~Rulemaking.~~

~~In} Fees -- Rulemaking.~~

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

(a) in accordance with Section 63J-1-504; and

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

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

Section ~~{5}~~10. Section **32B-4-414** is amended to read:

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

~~{(1)}~~ (1) A person may not possess liquor within this state unless authorized by this title or the rules of the commission, except that:

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

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

~~{(c)}~~ (3) a person who inherits liquor as a beneficiary of an estate that is located outside the state, may possess the liquor and transport or cause the liquor to be transported into the state if the person~~[:(1)]~~

~~[(i) obtains department approval before moving the liquor into the state;]~~ ~~{(2)}~~

~~{(ii)}~~ (a) provides sufficient documentation to the department to establish the person's legal right to the liquor as a beneficiary; and

~~{(iii)}~~ (b) pays the department a reasonable administrative handling fee as determined by the commission; or

~~{(d)}~~ (4) a person may transport or possess liquor if:

~~{(i)}~~ (a) the person transports or possesses the liquor:

~~{(A)}~~ (i) for personal household use and consumption; and

~~{(B)}~~ (ii) not for:

~~{(1)}~~ (A) sale;

~~{(2)}~~ (B) resale;

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~~[(III)]~~ (C) gifting to another; or

~~[(IV)]~~ (D) consumption on premises licensed by the commission;

~~[(ii)]~~ (b) the liquor is purchased from a store or facility on a military installation; and

~~[(iii)]~~ (c) the maximum amount the person transports or possesses under this

Subsection ~~[(1)(d)]~~ (4) is:

~~[(A)]~~ (i) two liters of:

~~[(1)]~~ (A) spirituous liquor;

~~[(II)]~~ (B) wine; or

~~[(III)]~~ (C) a combination of spirituous liquor and wine; and

~~[(B)(1)]~~ ~~[(ii)]~~ (A) one case of heavy beer that does not exceed 288 ounces; or

~~[(II)]~~ (B) one case of a flavored malt beverage that does not exceed 288 ounces.

~~[(2)(a) Approval under Subsection (1)(b) may be obtained by a person who:]~~

~~[(i) is transferring the person's permanent residence to this state; or]~~

~~[(ii) maintains separate residences both in and out of this state.]~~

~~[(b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more than one time.]~~