

# HB0399S01 compared with HB0399

~~{deleted text}~~ shows text that was in HB0399 but was deleted in HB0399S01.

inserted text shows text that was not in HB0399 but was inserted into HB0399S01.

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Representative Timothy D. Hawkes proposes the following substitute bill:

## ALCOHOL AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Timothy D. Hawkes**

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

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### LONG TITLE

#### General Description:

This bill amends and enacts provisions of the Alcoholic Beverage Control Act.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a grandfather clause for certain licensees regarding proximity requirements;
- ▶ prohibits advertising that promotes the intoxicating effects of alcohol or emphasizes the high alcohol content of an alcoholic product;
- ▶ enacts provisions regarding percentage lease agreements;
- ▶ consolidates provisions regarding qualifications for a resort license;

~~{~~ amends label and packaging requirements for beer;

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- ‡ ▶ grants the Alcoholic Beverage Control Commission (commission) plenary power to deem a license, permit, or certificate of approval forfeit;
- ▶ consolidates provisions regarding application requirements for retail licenses;
- ▶ grants the commission rulemaking authority to set standards for dispensing stations and areas;
- ~~{~~ → amends the definition of "small brewer" with regard to markups;
- ‡ ▶ permits certain package agencies and an on-premise banquet licensee to provide an alcoholic product free of charge to a guest room as part of room service under certain conditions;
- ▶ amends provisions regarding the timing of reporting violations;
- ▶ grants the department power to issue an order to show cause under certain conditions;
- ▶ amends provisions regarding multiple retail licenses operating on the same premises;
- ▶ amends provisions regarding bringing an alcoholic product onto or removing an alcoholic product from licensed premises;
- ▶ amends provisions regarding minors in or on the lounge or bar areas of certain licensees;
- ▶ grants the commission power to designate by rule a recreational amenity under certain conditions;
- ▶ amends the total annual gross receipts from the sale of food that a reception center licensee must maintain;
- ▶ prohibits an off-premise beer retailer state licensee from holding more than one type of license for the same premises;
- ▶ amends the Transfer of Retail License Act to:
  - govern the transfer of an off-premise beer retailer state license ~~{ and }~~ a manufacturing license, and an industrial or manufacturing use permit; and
  - permit the transfer of a bar establishment license across county lines;
- ▶ creates an arena license, including licensing requirements, operational requirements, and enforcement;
- ▶ consolidates provisions regarding sublicenses, creating the Sublicense Act;

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- ▶ creates a hospitality amenity sublicense, including licensing requirements, operational requirements, and enforcement;
- ▶ requires a person who substantially changes an event permit application to pay a nonrefundable fee;
- ▶ requires a peace officer arresting an individual for driving under the influence of alcohol to ask where the operator obtained the alcohol and record the information received;
- ▶ repeals provisions regarding enforcement of Nuisance Retail Licensee Act in relation to hotel and resort licensees; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date. }~~ None

### Utah Code Sections Affected:

AMENDS:

**32B-1-102**, as last amended by Laws of Utah 2019, Chapters 336, 403, 498 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 403

**32B-1-202**, as last amended by Laws of Utah 2018, Chapter 249

**32B-1-206**, as renumbered and amended by Laws of Utah 2011, Chapter 307

**32B-1-304**, as last amended by Laws of Utah 2019, Chapter 145

**32B-1-305**, as last amended by Laws of Utah 2019, Chapter 403

~~{ **32B-1-604**, as last amended by Laws of Utah 2017, Chapter 455~~

~~{ **32B-1-607**, as last amended by Laws of Utah 2019, Chapter 403~~

**32B-2-202**, as last amended by Laws of Utah 2019, Chapter 403

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

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

**32B-3-202**, as enacted by Laws of Utah 2010, Chapter 276

**32B-3-204**, as last amended by Laws of Utah 2012, Chapter 365

**32B-4-415**, as last amended by Laws of Utah 2018, Chapter 249

**32B-4-422**, as last amended by Laws of Utah 2011, Chapter 307

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- 32B-5-201**, as last amended by Laws of Utah 2017, Chapter 455
- 32B-5-202**, as last amended by Laws of Utah 2018, Chapter 249
- 32B-5-203**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-204**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-207**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-5-301**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-5-307**, as last amended by Laws of Utah 2018, Chapter 249
- 32B-6-406**, as last amended by Laws of Utah 2018, Chapter 249
- 32B-6-603**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-6-605**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-6-702**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-6-803**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-6-805**, as last amended by Laws of Utah 2019, Chapter 403
- 32B-8-102**, as last amended by Laws of Utah 2017, Chapter 455
- 32B-8-201**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-8-202**, as last amended by Laws of Utah 2011, Chapter 334
- 32B-8-401**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 32B-8-501**, as last amended by Laws of Utah 2019, Chapter 145
- 32B-8-502**, as enacted by Laws of Utah 2010, Chapter 276
- 32B-8a-101**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by  
Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-102**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by  
Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-201**, as last amended by Laws of Utah 2013, Chapter 349 and further amended  
by Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-202**, as last amended by Laws of Utah 2018, Chapter 249
- 32B-8a-203**, as last amended by Laws of Utah 2018, Chapter 249
- 32B-8a-302**, as last amended by Laws of Utah 2017, Chapters 455, 471 and last  
amended by Coordination Clause, Laws of Utah 2017, Chapter 471
- 32B-8a-303**, as and further amended by Revisor Instructions, Laws of Utah 2013,  
Chapter 349

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**32B-8a-401**, as last amended by Laws of Utah 2016, Chapter 82

**32B-8a-402**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

**32B-8a-404**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

**32B-8a-501**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

**32B-8a-502**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

**32B-8b-102**, as last amended by Laws of Utah 2018, Chapter 249

**32B-8b-201**, as last amended by Laws of Utah 2017, Chapter 455

**32B-8b-202**, as enacted by Laws of Utah 2016, Chapter 80

**32B-8b-301**, as last amended by Laws of Utah 2018, Chapter 249

**32B-8b-401**, as enacted by Laws of Utah 2016, Chapter 80

**32B-9-201**, as last amended by Laws of Utah 2012, Chapter 365

**32B-10-206**, as enacted by Laws of Utah 2010, Chapter 276

**32B-11-208**, as enacted by Laws of Utah 2010, Chapter 276

**32B-11-403**, as last amended by Laws of Utah 2016, Chapter 266

**63I-2-232**, as last amended by Laws of Utah 2019, First Special Session, Chapter 2

### ENACTS:

**32B-1-208**, Utah Code Annotated 1953

**32B-7-409**, Utah Code Annotated 1953

**32B-8c-101**, Utah Code Annotated 1953

**32B-8c-102**, Utah Code Annotated 1953

**32B-8c-201**, Utah Code Annotated 1953

**32B-8c-202**, Utah Code Annotated 1953

**32B-8c-301**, Utah Code Annotated 1953

**32B-8c-401**, Utah Code Annotated 1953

**32B-8d-101**, Utah Code Annotated 1953

**32B-8d-102**, Utah Code Annotated 1953

**32B-8d-103**, Utah Code Annotated 1953

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**32B-8d-104**, Utah Code Annotated 1953

**32B-8d-105**, Utah Code Annotated 1953

**32B-8d-201**, Utah Code Annotated 1953

**32B-8d-301**, Utah Code Annotated 1953

**32B-8d-302**, Utah Code Annotated 1953

**32B-8d-303**, Utah Code Annotated 1953

**32B-8d-304**, Utah Code Annotated 1953

**41-6a-531**, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

**32B-8d-202**, (Renumbered from 32B-8-301, as enacted by Laws of Utah 2010, Chapter 276)

**32B-8d-203**, (Renumbered from 32B-8-302, as enacted by Laws of Utah 2010, Chapter 276)

**32B-8d-204**, (Renumbered from 32B-8-303, as enacted by Laws of Utah 2010, Chapter 276)

**32B-8d-205**, (Renumbered from 32B-8-304, as last amended by Laws of Utah 2017, Chapter 455)

### REPEALS:

**32B-8-203**, as enacted by Laws of Utah 2010, Chapter 276

**32B-8-204**, as last amended by Laws of Utah 2011, Chapter 334

**32B-8-402**, as last amended by Laws of Utah 2011, Chapter 334

**32B-8-503**, as enacted by Laws of Utah 2010, Chapter 276

**32B-8b-203**, as enacted by Laws of Utah 2016, Chapter 80

**32B-8b-204**, as enacted by Laws of Utah 2016, Chapter 80

**32B-8b-302**, as last amended by Laws of Utah 2018, Chapter 249

**32B-8b-402**, as enacted by Laws of Utah 2016, Chapter 80

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

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

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

As used in this title:

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(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
- (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 1, Part 7, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

- (a) that is managed by:

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(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 8c, Arena License Act.

~~[(6)]~~ (8) "Banquet" means [a private] an event:

(a) that is a private event or a privately sponsored event;

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

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center; [or]

(v) a performing arts facility; or

(vi) an arena;

~~[(b)]~~ (c) for which there is a contract:

(i) between a person operating a facility listed in Subsection ~~[(6)(a)]~~ (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection ~~[(6)(a)]~~ (8)(b) is required to provide an alcoholic product at the event; and

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

~~[(7)]~~ (9) "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)]~~ (10) (a) "Bar establishment license" means a license issued in accordance with



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Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

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

~~[(9)]~~ (11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

~~[(10)]~~ (12) (a) Subject to Subsection (10)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and

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

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection ~~[(10)]~~ (12)(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)]~~ (13) "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)]~~ (14) "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

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(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)]~~ (15) "Beer wholesaling license" means a license:

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

~~[(14)]~~ (16) "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)]~~ (17) "Brewer" means a person engaged in manufacturing:

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

~~[(16)]~~ (18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

~~[(17)]~~ (19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

~~[(18)]~~ (20) "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)]~~ (21) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;

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- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

~~[(20)]~~ (22) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

~~[(21)]~~ (23) "Commissioner" means a member of the commission.

~~[(22)]~~ (24) "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)]~~ (25) "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)]~~ (26) "Container" means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

~~[(25)]~~ (27) "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)]~~ (28) (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)]~~ (29) "Crime involving moral turpitude" is as defined by the commission by rule.

~~[(28)]~~ (30) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

~~[(29)]~~ (31) "Department compliance officer" means an individual who is:

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

~~[(30)]~~ (32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

~~[(31)]~~ (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

~~[(32)]~~ (34) "Director," unless the context requires otherwise, means the director of the department.

~~[(33)]~~ (35) "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.

~~[(34)]~~ (36) (a) Subject to Subsection ~~[(34)]~~ (36)(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 ~~[(34)]~~ (36) 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.

~~[(35)]~~ (37) "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.

~~[(36)]~~ (38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

~~[(37)]~~ (39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

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

~~[(a) a nursery school;]~~

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~~[(b) an infant day care center, and]~~

~~[(c) a trade and technical school.]~~

~~[(39)]~~ (40) "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.

~~[(40)]~~ (41) "Event permit" means:

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

~~[(41)]~~ (42) "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.

~~[(42)]~~ (43) (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.

~~[(43)]~~ (44) "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.

~~[(44)]~~ (45) "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.

~~[(45)]~~ (46) (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;

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(ii) deliver; or

(iii) otherwise make available.

~~[(46)]~~ (47) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

~~[(47)]~~ (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

~~[(48)]~~ (49) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

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

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

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

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

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

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

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

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

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

~~[(49)]~~ (50) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

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

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

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(51) "Hospitality amenity sublicense" means a hotel or resort license sublicense issued in accordance with Chapter 8d, Part 3, Hospitality Amenity Sublicense.

~~[(50)]~~ (52) "Hotel" means a commercial lodging establishment that:

(a) offers at least ~~[30]~~ 40 rooms as temporary sleeping accommodations for compensation;

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

(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]~~ and can accommodate at 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.

~~[(51)]~~ (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

~~[(52)]~~ (54) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

~~[(53)]~~ (55) "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.

~~[(54)]~~ (56) "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.

~~[(55)]~~ (57) "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.

~~[(56)]~~ (58) "Intoxicated" means that a person:

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(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 ~~[(56)]~~ (58)(a)(i) through (iii); and

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

~~[(57)]~~ (59) "Investigator" means an individual who is:

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

~~[(58)]~~ ~~[(60)]~~ "Invitee" means the same as that term is defined in Section 32B-8-102.1

~~[(59)]~~ ~~[(61);60]~~ "License" means:

- (a) a retail license;
- (b) a sublicense;

~~[(b)]~~ (c) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

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

~~[(d)]~~ (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

~~[(e)]~~ (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(60)]~~ ~~[(62);61]~~ "Licensee" means a person who holds a license.

~~[(61)]~~ ~~[(63);62]~~ "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.

~~[(62)]~~ ~~[(64);63]~~ "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



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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.

~~[(63)]~~ ~~(65;64)~~ (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

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

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

(IV) other drink or drinkable liquid; and

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

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

~~[(64)]~~ ~~(66;65)~~ "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

~~[(65)]~~ ~~(67;66)~~ "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(66)]~~ ~~(68;67)~~ "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.

~~[(67)]~~ ~~(69;68)~~ "Local authority" means:

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

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

(c) for premises that are located in a project area as defined in Section 63H-1-201 and in a project area plan adopted by the Military Installation Development Authority under Title

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63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

~~[(68)]~~ ~~(70;69)~~ "Lounge or bar area" is as defined by rule made by the commission.

~~[(69)]~~ ~~(71;70)~~ "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.

~~[(70)]~~ ~~(72;71)~~ "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

~~[(71)]~~ ~~(73;72)~~ (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

- (i) (A) under the control of the United States Department of Defense; or
- (B) of the National Guard;
- (ii) that is located within the state; and
- (iii) including a leased facility.

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

- (i) civil works;
- (ii) a rivers and harbors project; or
- (iii) a flood control project.

~~[(72)]~~ ~~(74;73)~~ "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.

~~[(73)]~~ ~~(75;74)~~ "Minor" means an individual under the age of 21 years.

~~[(74)]~~ ~~(76;75)~~ "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.

~~[(75)]~~ ~~(77;76)~~ "Nondepartment enforcement officer" means an individual who is:

- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.

~~[(76)]~~ ~~(78;77)~~ (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

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premises.

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

~~[(77)]~~ ~~(~~79~~;78)~~ "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

~~[(78)]~~ ~~(~~80~~;79)~~ "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.

~~[(79)]~~ ~~(~~81~~;80)~~ "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

(A) as a tavern; or

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

~~[(80)]~~ ~~(~~82~~;81)~~ "Opaque" means impenetrable to sight.

~~[(81)]~~ ~~(~~83~~;82)~~ "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.

~~[(82)]~~ ~~(~~84~~;83)~~ "Package agent" means a person who holds a package agency.

~~[(83)]~~ ~~(~~85~~;84)~~ "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;

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(e) an individual who receives room service;

(f) a resident of a resort; or

~~[(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;~~

or]

~~[(h) ~~[(g)]~~ an invitee ~~[(f)]~~; ~~[(or)]~~~~

(~~[(h)]~~g) a hospitality guest, as defined in Section 32B-8d-102, under a hospitality amenity sublicense.

~~[(84)]~~ (~~[(86)]~~85) (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.

~~[(85)]~~ (~~[(87)]~~86) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

~~[(86)]~~ (~~[(88)]~~87) "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 ~~[(86)]~~ (~~[(88)]~~87)(a) through (f); or

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(ii) a package agent.

~~[(87)]~~ ~~(~~89~~;88)~~ "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.

~~[(88)]~~ ~~(~~90~~;89)~~ "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.

~~(~~91~~;90)~~ (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

~~(b)~~ "Primary spirituous liquor" does not include a secondary flavoring ingredient.

~~(~~92~~;91)~~ "Principal license" means:

~~(a)~~ a resort license;

~~(b)~~ a hotel license; or

~~(c)~~ an arena license.

~~[(89)]~~ ~~(~~93~~;92)~~ (a) "Private event" means a specific social, business, or recreational event: (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

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

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

~~(~~94~~;93)~~ "Privately sponsored event" means a specific social, business, or recreational event:

~~(a)~~ that is held in or on the premises of an on-premise banquet licensee; and

~~(b)~~ to which entry is restricted by an admission fee.

~~[(90)]~~ ~~(~~95~~;94)~~ (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

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- (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.

(~~96~~95) "Provisions applicable to a sublicense" means:

- (a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
- (b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
- (c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;
- (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;
- (e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;
- (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
- (g) for a resort spa sublicense, the provisions applicable to the sublicense under

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### Chapter 8d, Part 2, Resort Spa Sublicense; and

(h) for a hospitality amenity sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 3, Hospitality Amenity Sublicense.

~~[(91)]~~ ~~(~~97~~;96)~~ (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

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

~~[(92)]~~ ~~(~~98~~;97)~~ "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.

~~[(93)]~~ ~~(~~99~~;98)~~ "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 ~~[(93)]~~

~~(~~99~~;98)~~(a) to a third party for the third party's event.

~~[(94)]~~ ~~(~~100~~;99)~~ "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(95)]~~ ~~(~~101~~;100)~~ (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;

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

~~[(96)]~~ ~~(~~102~~;101)~~ "Residence" means a person's principal place of abode within Utah.

~~[(97)]~~ ~~(~~103~~;102)~~ "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~[(98)]~~ ~~(~~104~~;103)~~ "Resort" means the same as that term is defined in Section 32B-8-102.

~~[(99)]~~ ~~(~~105~~;104)~~ "Resort facility" is as defined by the commission by rule.

~~(~~106~~;105)~~ "Resort spa sublicense" means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

~~[(100)]~~ ~~(~~107~~;106)~~ "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

~~[(101)]~~ ~~(~~108~~;107)~~ "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

- (a) over-serving alcoholic beverages to customers;
- (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (c) serving alcoholic beverages to minors.

~~[(102)]~~ ~~(~~109~~;108)~~ "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.

~~(~~110~~;109)~~ "Restaurant license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a limited-service restaurant license; or
- (c) a beer-only restaurant license.

~~[(103)]~~ ~~(~~111~~;110)~~ "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;



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- (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~~[-];~~ or
- (m) an arena license.

~~[(104)]~~ ~~(~~112~~;111)~~ "Room service" means furnishing an alcoholic product to a person in a guest room of a:

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

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

~~(~~113~~;112)~~ (a) "School" means a building in which any part is used as a public or private:

- (i) elementary school;
- (ii) secondary school; or
- (iii) kindergarten.
- (b) "School" does not include ~~[an educational facility.];~~
  - (i) a nursery school;
  - (ii) an infant day care center;
  - (iii) a trade and technical school;
  - (iv) a preschool; or
  - (v) a home school.

~~(~~114~~;113)~~ "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary

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spirituous liquor in the beverage.

[(106)] (~~(115)~~114) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[(107)] (~~(116)~~115) "Serve" means to place an alcoholic product before an individual.

[(108)] (~~(117)~~116) "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 [(108)]

(~~(117)~~116)(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.

(~~(118)~~117) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(~~(2)~~3).

[(109)] (~~(119)~~118) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

[(110)] (~~(120)~~119) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

[(111)] (~~(121)~~120) "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

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

~~[(112)]~~ ~~(~~122~~)~~ 121 "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(113)]~~ ~~(~~123~~)~~ 122 (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.

~~[(114)]~~ ~~(~~124~~)~~ 123 "Sports center" is as defined by the commission by rule.

~~[(115)]~~ ~~(~~125~~)~~ 124 (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.

~~[(116)]~~ ~~(~~126~~)~~ 125 "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:

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- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.

~~[(117)]~~ ~~(~~127~~;126)~~ "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

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

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(118)]~~ ~~(~~128~~;127)~~ (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.

~~[(119)]~~ ~~(~~129~~;128)~~ (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.

~~[(120)]~~ ~~(~~130~~;129)~~ "Sublicense" means ~~[the same as that term is defined in Section 32B-8-102 or 32B-8b-102.];~~

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

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(v) an on-premise beer retailer license ~~that is not a tavern~~; or

(vi) a beer-only restaurant license;

(b) a hospitality amenity sublicense; or

(c) a resort spa sublicense.

~~(121)~~ ~~(131)~~ 130 "Supplier" means a person who sells an alcoholic product to the department.

~~(122)~~ ~~(132)~~ 131 "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.

~~(123)~~ ~~(133)~~ 132 "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~(124)~~ ~~(134)~~ 133 "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.

~~(125)~~ ~~(135)~~ 134 "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~(126)~~ ~~(136)~~ 135 "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:

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- (A) sediment; or
- (B) a foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

~~[(127)]~~ ~~(137)~~ 136 (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.

~~[(128)]~~ ~~(138)~~ 137 "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

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

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

(1) As used in this section:

(a) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

(iii) a beer-only restaurant licensee.

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

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

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

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

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

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

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

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

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

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

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of

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whether:

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

~~[(4)]~~ (5) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

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

(b) The provisions of this Subsection ~~[(4)]~~ (5) apply regardless of when the outlet's or restaurant's license is issued.

~~[(5)]~~ (6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 3. Section **32B-1-206** is amended to read:

### **32B-1-206. Advertising prohibited -- Exceptions.**

- (1) (a) The department may not advertise liquor, except:
- (i) the department may provide for an appropriate sign in the window or on the front of a state store or package agency denoting that it is a state authorized liquor retail facility;
  - (ii) the department or a package agency may provide a printed price list to the public;
  - (iii) the department may authorize the use of price posting and floor stacking of liquor within a state store;
  - (iv) subject to Subsection (1)(b), the department may provide a listing of the address and telephone number of a state store in one or more printed or electronic directories available



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to the general public; and

(v) subject to Subsection (1)(b), a package agency may provide a listing of its address and telephone number in one or more printed or electronic directories available to the general public.

(b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a telephone directory may not be displayed in an advertisement or other promotional format.

(2) (a) The department may not advertise an alcoholic product on a billboard.

(b) A package agency may not advertise an alcoholic product on a billboard, except to the extent allowed by the commission by rule.

(3) (a) The department may not display liquor or a price list in a window or showcase visible to passersby.

(b) A package agency may not display liquor or a price list in a window or showcase visible to passersby, except to the extent allowed by the commission by rule.

(4) Advertising of an alcoholic product may not:

(a) promote the intoxicating effects of alcohol; or

(b) emphasize the high alcohol content of the alcoholic product.

~~[(4)]~~ (5) Except to the extent prohibited by this title, the advertising of an alcoholic product is allowed under guidelines established by the commission by rule.

~~[(5)]~~ (6) The advertising or use of any means or media to offer an alcoholic product to the general public without charge is prohibited.

Section 4. Section **32B-1-208** is enacted to read:

**32B-1-208. Percentage lease agreements.**

(1) As used in this section ~~(a)~~:

(a) "~~{percentage}~~ **Percentage** lease agreement" means a lease agreement in which the lessee:

~~(a)~~ **(i)** is a retail licensee; and

~~(b)~~ **(ii)** pays the lessor:

~~(i)~~ **A** a base rent; and

~~(ii) a percentage of gross revenue~~ **B) percentage rent.**

(b) "**Percentage rent**" means a percentage:

(i) **agreed upon between a lessor and lessee; and**

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(ii) of the total sales revenue that:

(A) exceed a fixed dollar amount of sales revenue; and

(B) the lessee earns while doing business on the rental premises.

(2) (a) The parties to a percentage lease agreement shall submit a copy of the percentage lease agreement to the department.

(b) If there is a material change to the percentage lease agreement submitted to the department under Subsection (2)(a), the parties to the percentage lease agreement shall promptly submit a copy of the changed percentage lease agreement to the department.

(3) If a percentage lease agreement requires a retail licensee to pay the lessor a ~~{sum}~~ percentage rent of 6% or less ~~{ of the retail licensee's gross revenue }~~, the department may not conduct any further investigation into the percentage lease agreement.

(4) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and

(b) the procedure for submitting a percentage lease agreement under Subsection (2).

Section 5. Section **32B-1-304** is amended to read:

**32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

(1) (a) ~~[The]~~ Except as provided in Subsection (7), the commission may not issue a package agency, license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

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(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(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 the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) ~~[The]~~ Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) ~~[The]~~ Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) ~~[The]~~ Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in

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Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, licence, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

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(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(6) [Hf] Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

(7) If the licensee is a resort licensee:

(a) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and

(b) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

Section 6. Section **32B-1-305** is amended to read:

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

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

(a) provide a signed waiver from the individual whose fingerprints may be registered in

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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:

(i) is approved to operate a package agency; or

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(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 package agency or licensee.

(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.

(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 7. Section ~~{32B-1-604}~~32B-1-607 is amended to read:

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

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

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

~~\_\_\_\_\_ (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; [and]~~

~~\_\_\_\_\_ (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;~~  
~~and~~

~~\_\_\_\_\_ (iii) if the malted beverage is beer, includes the alcohol content of the beer expressed as percent alcohol by volume:~~

~~\_\_\_\_\_ (A) in a font at least four millimeters high on a label; and~~

~~\_\_\_\_\_ (B) in a font at least five millimeters high on packaging; and~~

~~\_\_\_\_\_ (b) until the day on which the department in accordance with this title and rules of the~~

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~~commission approves the label and packaging of the malted beverage.~~

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

~~—— (3) Except as otherwise required under Section 32B-1-606, a manufacturer may comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for a malted beverage any of the following terms:~~

~~—— (a) beer;~~

~~—— (b) ale;~~

~~—— (c) porter;~~

~~—— (d) stout;~~

~~—— (e) lager;~~

~~—— (f) lager beer; or~~

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

~~—— Section 8. Section **32B-1-607** is amended to read:~~

### ‡ **32B-1-607. Rulemaking authority.**

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

(2) Notwithstanding Subsections 32B-1-102[~~(10)~~](12) and [~~(49)~~](50), 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 ~~{9}~~8. 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



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- (ii) determining the location of a state store, package agency, or retail licensee;
- (d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;
- (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:
  - (i) a package agency;
  - (ii) a full-service restaurant license;
  - (iii) a master full-service restaurant license;
  - (iv) a limited-service restaurant license;
  - (v) a master limited-service restaurant license;
  - (vi) a bar establishment license;
  - (vii) an airport lounge license;
  - (viii) an on-premise banquet license;
  - (ix) a resort license, [~~under which at least~~] which includes 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~~] which includes three or more sublicenses [~~may be included~~];
  - (xiv) an arena license, which includes three or more sublicenses;
  - ~~[(xiv)]~~ (xv) subject to Subsection (4), a single event permit;
  - ~~[(xv)]~~ (xvi) subject to Subsection (4), a temporary beer event permit;
  - ~~[(xvi)]~~ (xvii) a special use permit;
  - ~~[(xvii)]~~ (xviii) a manufacturing license;
  - ~~[(xviii)]~~ (xvix) a liquor warehousing license;
  - ~~[(xix)]~~ (xx) a beer wholesaling license;
  - ~~[(xx)]~~ (xxi) a liquor transport license;
  - ~~[(xxi)]~~ (xxii) an off-premise beer retailer state license;
  - ~~[(xxii)]~~ (xxiii) a master off-premise beer retailer state license; and

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~~[(xxiii)]~~ (xxiv) 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
  - (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

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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:

- (a) establish a state store;
- (b) issue authority to act as a package agent or operate a package agency; and
- (c) issue ~~[or]~~, deny, or deem forfeit 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)]~~ (1)(e)(xv) and (xvi), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section ~~{10}9~~. Section ~~{32B-2-304}~~32B-2-605 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 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~~

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~~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~~

~~—— (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~~

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~~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 11. 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.

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(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 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

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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, the department may provide 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) [~~A~~] Except as provided in Subsection (7)(b), a package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(b) A package agency may provide as room service one alcoholic product free of charge per guest room, if:

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

(ii) staff of the package agency provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product is in an unopened container not to exceed 750 milliliters.

(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.

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(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]~~ day on which the package agency closes or ceases operation; 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 described in Subsection (10)(c)(i) 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]~~ 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):



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

(A) on Sunday; or

(B) on a state or federal legal holiday.

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

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

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

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

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license;

(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:

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(A) a resort licensee; or

(B) a hotel licensee.

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

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

(i) 21 years of age or older; and

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

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

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

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

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

(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

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(iii) subject to:

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

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

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

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

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

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

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (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 ~~{12}~~10. Section **32B-3-202** is amended to read:

### **32B-3-202. Timing of reporting violations.**

~~[Except when the person subject to administrative action is staff.]~~

~~[(1) A disciplinary proceeding may not be initiated or maintained by the commission or department on the basis, in whole or in part, of a violation of this title unless a person subject to administrative action against whom the violation is alleged is notified by the department of the violation in accordance with this section.]~~

~~[(2)(a) A nondepartment enforcement agency or nondepartment enforcement officer may not report a violation of this title to the department more than eight business days after the~~

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day on which a nondepartment enforcement officer or agency completes an investigation that finds a violation of this title:]

~~[(b) If the commission or department wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a report described in Subsection (2)(a), the department shall notify a person subject to administrative action who is alleged by the report to have violated this title:]~~

~~[(i) by no later than eight business days of the day on which the department receives the report described in Subsection (2)(a); and]~~

~~[(ii) that the commission or department may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation:]~~

~~[(3) If the commission or department wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by a report of a department compliance officer, the department shall notify a person subject to administrative action who is alleged by the report to have violated this title:]~~

~~[(a) by no later than eight business days of the day on which the department compliance officer completes an investigation that finds a violation of this title; and]~~

~~[(b) that the commission or department may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation:]~~

(1) Before the department or the commission may take administrative action against a person subject to administrative action:

(a) a nondepartment enforcement agency or enforcement officer or a department compliance officer shall submit to the department a report:

(i) containing facts that could support a finding that the person subject to administrative action violated this title or a commission rule; and

(ii) no more than eight business days after the day on which the nondepartment enforcement agency or officer or the compliance officer completes the investigation containing the facts described in Subsection (1)(a)(i); and

(b) subject to Subsection (5), the department shall notify the person subject to administrative action:

(i) no more than eight business days after the day on which the department receives the report described in Subsection (1)(a);

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(ii) that the commission or department received the report described in Subsection (1)(a); and

(iii) that the commission or department may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, on the facts contained in the report described in Subsection (1)(a).

~~[(4)]~~ (2) (a) ~~[A]~~ The department may provide the notice required [by] under this section [may be done] orally, if after the oral notification the department provides written notification.

(b) The department may provide the written notification described in Subsection ~~[(4)]~~ (2)(a) ~~[may be sent]~~ outside the time periods required ~~[by]~~ under this section.

~~[(5)]~~ (3) The department shall maintain a record of a notification required ~~[by]~~ under this section that includes:

- (a) the name of the person notified; ~~[and]~~
- (b) the date of the notification~~[-]; and~~
- (c) the type of notification given.

(4) (a) The department may issue an order to show cause if the department receives a report described in Subsection (1)(a), containing facts that could support a finding that the person subject to administrative action violated:

- (i) this title regarding necessary licensing requirements; or
- (ii) a commission rule regarding necessary licensing requirements.
- (b) A necessary licensing requirement described in Subsection (4)(a) includes:
  - (i) maintaining an approved, licensed premise;
  - (ii) maintaining insurance;
  - (iii) maintaining a bond;
  - (iv) following the requirements in Section 32B-1-304, regarding qualifications;
  - (v) maintaining required store hours;
  - (vi) failing to utilize the license issued; or
  - (vii) transferring a license in violation of Chapter 8a, Transfer of Applicable License

Act.

(c) The department's issuance of an order to show cause in accordance with this Subsection (4):

- (i) does not initiate a disciplinary proceeding; and

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(ii) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department is not required to provide notice as described in Subsection (1)(b) if the person subject to administrative action is staff.

Section ~~{13}~~11. Section **32B-3-204** is amended to read:

### **32B-3-204. Disciplinary proceeding procedure.**

(1) (a) Subject to Section 32B-3-202, the following may conduct an adjudicative proceeding to inquire into a matter necessary and proper for the administration of this title and rules adopted under this title:

(i) the commission;

(ii) a hearing examiner appointed by the commission to conduct a suspension, non-renewal, or revocation hearing required by law;

(iii) the director; and

(iv) the department.

(b) Except as provided in this section or Section 32B-2-605, a person described in Subsection (1)(a) shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

(c) Except when otherwise provided by law, an adjudicative proceeding before the commission or a hearing examiner appointed by the commission shall be:

(i) video or audio recorded; and

(ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures made by the commission, director, or department.

(2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted under the authority of the commission, which is responsible for rendering a final decision and order on a disciplinary matter.

(b) (i) The commission may appoint a necessary officer, including a hearing examiner,

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from within or without the department, to administer the disciplinary proceeding process.

(ii) A hearing examiner appointed by the commission:

(A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

(B) shall submit to the commission a report including:

(I) findings of fact determined on the basis of a preponderance of the evidence presented at the hearing;

(II) conclusions of law; and

(III) recommendations.

(iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a penalty more severe than that initially sought by the department in the notice of agency action.

(iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served upon the respective parties.

(v) Before final commission action, the commission shall give a respondent and the department reasonable opportunity to file a written objection to a hearing examiner report.

(3) (a) The commission or an appointed hearing examiner shall preside over a disciplinary proceeding hearing.

(b) A disciplinary proceeding hearing may be closed only after the commission or hearing examiner makes a written finding that the public interest in an open hearing is clearly outweighed by factors enumerated in the closure order.

(c) (i) The commission or [~~its~~] an appointed hearing examiner as part of a disciplinary proceeding hearing may:

(A) administer an oath or affirmation;

(B) take evidence, including evidence provided in relation to an order to show cause the department issued in accordance with Section 32B-3-202;

(C) take a deposition within or without this state; and

(D) require by subpoena from a place within this state:

(I) the testimony of a person at a hearing; and

(II) the production of a record or other evidence considered relevant to the inquiry.

(ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and produce a record or tangible thing as required in the subpoena.

(iii) A witness subpoenaed, called to testify, or called to produce evidence who claims

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a privilege against self-incrimination may not be compelled to testify, but the commission or the hearing examiner shall file a written report with the county attorney or district attorney in the jurisdiction where the privilege is claimed or where the witness resides setting forth the circumstance of the claimed privilege.

(iv) (A) A person is not excused from obeying a subpoena without just cause.

(B) A district court within the judicial district in which a person alleged to be guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to:

(I) appear before the issuing party; and

(II) (Aa) produce documentary evidence if so ordered; or

(Bb) give evidence regarding the matter in question.

(C) Failure to obey an order of the court may be punished by the court as contempt.

(d) In a case heard by the commission, the commission shall issue its final decision and order in accordance with Subsection (2).

(4) (a) The commission shall:

(i) render a final decision and order on a disciplinary action; and

(ii) cause its final order to be prepared in writing, issued, and served on all parties.

(b) An order of the commission is final on the date the order is issued.

(c) The commission, after the commission renders its final decision and order, may require the director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.

(5) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by the commission or a hearing examiner appointed by the commission shall proceed formally in accordance with Sections 63G-4-204 through 63G-4-209 if:

(i) the alleged violation poses, or potentially poses, a grave risk to public safety, health, and welfare;

(ii) the alleged violation involves:

(A) selling or furnishing an alcoholic product to a minor;

(B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct, and Entertainment Act;

(C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf



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of the respondent;

(D) interfering or refusing to cooperate with:

(I) an authorized official of the department or the state in the discharge of the official's duties in relation to the enforcement of this title; or

(II) a peace officer in the discharge of the peace officer's duties in relation to the enforcement of this title;

(E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;

(F) unlawful importation of an alcoholic product; or

(G) unlawful supply of liquor by a liquor industry member, as defined in Section 32B-4-702, to a person other than the department or a military installation, except to the extent permitted by this title; or

(iii) the department determines to seek in a disciplinary proceeding hearing:

(A) an administrative fine exceeding \$3,000;

(B) a suspension of a license, permit, or certificate of approval of more than 10 days; or

(C) a revocation of a license, permit, or certificate of approval.

(b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by the commission in accordance with Subsection (5)(c).

(c) The commission shall make rules to provide a procedure to implement this Subsection (5).

(6) (a) If the department recommends nonrenewal of a license, the department shall notify the licensee of the recommendation at least 15 days before the commission takes action on the nonrenewal.

(b) Notwithstanding Subsection (2), the commission shall appoint a hearing examiner to conduct an adjudicative hearing in accordance with this section if the licensee files a request for a hearing within 10 days of receipt of the notice under Subsection (6)(a).

Section ~~{14}~~12. Section **32B-4-415** is amended to read:

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

(1) Except as provided in Subsection (4) and [~~Subsection 32B-5-307(4)~~] Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

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

(2) Except as provided in Subsection (4) and [~~Subsection 32B-5-307(4)~~] Section 32B-5-307, the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

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

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

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

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

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

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

- (i) the travel of the limousine begins and ends at:

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- (A) the residence of the passenger;
- (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
- (C) the temporary domicile of the passenger;
- (ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and
- (iii) the limousine is not located on the capitol hill complex.
- (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:
  - (i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or
  - (B) if the travel of the chartered bus begins and ends at:
    - (I) the residence of the passenger;
    - (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
    - (III) the temporary domicile of the passenger;
  - (ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and
  - (iii) if the chartered bus is not located on the capitol hill complex.
- (5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.
- (6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.
- (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:
  - (a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or
  - (b) except as provided in Subsection (4), [~~a sublicense~~] sublicensed premises.

Section ~~{15}~~13. Section **32B-4-422** is amended to read:

### **32B-4-422. Unlawful dispensing.**

~~[(1) For purposes of this section:]~~

~~[(a) "Primary spirituous liquor" means the main distilled spirit in a beverage.]~~

~~[(b) "Primary spirituous liquor" does not include a secondary alcoholic product used as~~

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~~a flavoring in conjunction with the primary distilled spirit in a beverage.]~~

~~[(2)]~~ (1) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous liquor for consumption on the licensed premises, or staff of the retail licensee may not:

(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department;

(b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per beverage;

(c) allow a person on the licensed premises to have more than a total of 2.5 ounces of spirituous liquor at a time; or

(d) (i) except as provided in Subsection ~~[(2)]~~ (1)(d)(ii), allow a person to have more than two spirituous liquor beverages at a time; or

(ii) allow a person on the premises of the following to have more than one spirituous liquor beverage at a time:

(A) a full-service restaurant licensee;

(B) a person operating under a full-service restaurant sublicense;

(C) an on-premise banquet licensee;

(D) a person operating under an on-premise banquet sublicense; or

(E) a single event permittee.

~~[(3)]~~ (2) A violation of this section is a class C misdemeanor.

Section ~~16~~ 14. Section **32B-5-201** is amended to read:

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

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

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

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

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

(b) a nonrefundable application fee in the amount specified in the relevant ~~[part under~~

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~~Chapter 6, Specific Retail License Act,~~ chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

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

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

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the relevant political subdivision determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

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

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

(i) consumption area; and

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

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

(j) evidence that the retail licensee ~~[is carrying]~~ carries dramshop insurance coverage of at least:

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

(ii) if the retail licensee is a hotel licensee or a resort licensee, \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, \$10,000,000 per occurrence and \$20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses.

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

(i) the premises of the retail licensee; and

(ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

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

(m) a responsible alcohol service plan; and

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

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

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

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

(4) Unless otherwise provided in the relevant [~~part under Chapter 6, Specific Retail License Act,~~] chapter or part for the type of retail license for which the person is applying, the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

Section ~~{17}~~15. Section **32B-5-202** is amended to read:

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

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

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

(i) a completed renewal application in a form prescribed by the department; and

(ii) a renewal fee in the amount specified in the relevant [~~part under Chapter 6, Specific Retail License Act,~~] chapter or part for the type of retail license that [~~is being renewed~~] the person seeks to renew.

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

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- (i) made substantial changes to the retail licensee's responsible alcohol service plan; or
- (ii) violated a provision of this chapter.
- (c) The department may audit a retail licensee's responsible alcohol service plan.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the [date] day on which the existing retail license expires.

Section ~~{18}~~16. Section **32B-5-203** is amended to read:

### **32B-5-203. Commission and department duties before issuing a retail license.**

(1) (a) Before the commission may issue a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a retail license and, if applicable, each accompanying sublicense 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 retail license, the commission shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-5-201; and

(ii) the specific licensing requirements specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,]~~ chapter or part for the type of retail license for which the person is applying;

(b) determine that the person and, if applicable, each of the person's accompanying sublicenses is not disqualified under Section 32B-1-304;

(c) consider the locality within which the proposed licensed premises and, if applicable, each proposed sublicensed premises is located, including:

(i) physical characteristics such as:

(A) condition of the licensed or sublicensed premises;

(B) square footage; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic;

(B) demographics;

(C) population to be served;

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(D) proximity to and density of other state stores, package agencies, and retail licensees; and

(E) the extent of and proximity to any community location;

(d) consider the person's ability to manage and operate a retail license, and if applicable the ability of each individual who will act in a supervisory or managerial capacity for each accompanying sublicense to supervise or manage a sublicense, of the type for which the person is applying, including:

(i) management experience;

(ii) past retail alcoholic product experience; and

(iii) the type of management scheme to be used by the retail licensee or accompanying sublicensee;

(e) consider the nature or type of retail licensee operation, and if applicable each proposed accompanying sublicensee's operation, of the proposed retail licensee, including:

(i) the type of menu items that will be offered and emphasized;

(ii) whether the retail licensee or the retail licensee's accompanying sublicensee will emphasize service to an adult clientele or to minors;

(iii) the proposed hours of operation;

(iv) the seating capacity of the premises; and

(v) the estimated gross sales of food items; and

(f) consider any other factor the commission considers necessary.

(3) The commission shall determine whether an applicant under this section has an adequate kitchen or culinary facilities by considering:

(a) the type of retail license or sublicense for which the person is applying;

(b) the purpose of the proposed retail license or sublicense; and

(c) the locality within which the proposed licensed or sublicensed premises is located.

Section ~~{19}~~17. Section **32B-5-204** is amended to read:

### **32B-5-204. Bond for retail license.**

(1) (a) A retail licensee shall post a cash bond or surety bond:

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

(ii) payable to the department.



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(b) A retail licensee shall procure and maintain the bond required under this section for as long as the retail licensee continues to operate as a retail licensee.

(2) A bond required under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the retail licensee's faithful compliance with this title and the rules of the commission.

(3) (a) If a surety bond posted by a retail licensee under this section is canceled due to the retail licensee's negligence, the department may assess a \$300 reinstatement fee.

(b) No part of a bond posted by a retail licensee under this section may be withdrawn:

(i) during the period the retail license is in effect; or

(ii) while a revocation proceeding is pending against the retail licensee.

(4) (a) A bond posted under this section by a retail licensee may be forfeited if the retail license is revoked.

(b) Notwithstanding Subsection (4)(a), the department may make a claim against a bond posted by a retail licensee for money owed the department under this title without the commission first revoking the retail license.

Section ~~20~~18. 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.~~] "license" means:

(a) a retail license; and

(b) a sublicense.

(2) [~~(a) The~~] Except as provided in Subsection (3), 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)~~] (3) (a) [~~Notwithstanding Subsection (2)(a), the~~] 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~~]

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

(D) a hospitality amenity sublicense; and

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

(b) The commission may issue and two or more restaurant licensees may share an area of each restaurant licensee's licensed premises designated for alcoholic beverage consumption, if:

(i) the applicants or licensees satisfy the requirements for each license; and

(ii) the only shared premises between the issued or held restaurant licenses is the area for alcoholic beverage consumption.

(c) The commission may issue and two or more licensees may share a kitchen or culinary facilities located in or on one or more of the licensee's licensed premises, if:

(i) the types of licenses issued or held are two or more sublicenses of a principal licensee:

(A) one of which is an on-premise banquet sublicense; and

(B) one of which is a restaurant license that is a sublicense, an on-premise beer retailer sublicense that is not a tavern, or a bar sublicense; or

(ii) (A) the same person applies for or holds each license;

(B) the licensed premises are each owned or leased by the same person and located in the same building; and

(C) the only shared premises between the issued or held licenses is the kitchen or culinary facilities area, including any pathway necessary to transport an item to and from the area.

~~[(3)]~~ (4) When one or more licensees hold more than one type of [~~retail~~] license for the same premises under Subsection ~~[(2)(b)]~~ (3)(a), 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~~[-]~~; or

(iv) a hospitality amenity.

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(5) When two or more restaurant licensees share an area of each restaurant licensee's licensed premises designated for alcoholic beverage consumption in accordance with Subsection (3)(b), each licensee shall:

(a) maintain control over the licensee's patrons; and

(b) use a visual marker to clearly identify which licensee served each patron.

~~[(4)] (6) (a) [The] For purposes of Subsection (3)(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)] (6)~~(a), two licenses are not considered in the same room if:

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

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

~~[(6)] (7) (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]~~ sublicensed premises are clearly delineated by one or more permanent physical structures, such as a wall or other architectural feature, that separate the ~~[sublicense]~~ sublicensed premises.

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(b) A patron may not transport an alcoholic beverage between two [~~sub~~license] sublicensed premises located in the same room in accordance with Subsection [(6)] (7)(a).

(c) Notwithstanding any provision to the contrary, a minor may momentarily pass through a [~~sub~~license] sublicensed 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 ~~{21}~~19. Section **32B-5-301** is amended to read:

### **32B-5-301. General operational requirements.**

(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,~~] chapter or part 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,~~] chapter or part for the specific type of retail license, the relevant [~~part under Chapter 6, Specific Retail License Act,~~] chapter or part for the specific type of retail license 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]~~ chapter or part for the retail licensee's specific type of retail license.

(c) Notwithstanding that this part or the relevant [~~part under Chapter 6, Specific Retail License Act,~~] chapter or part for a specific retail licensee 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";

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(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 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:

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(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 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,~~] chapter or part for the retail licensee's specific 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)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(a) related to the requirement described in Subsection (8)[~~(a)~~]; and

(b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees, and taverns, establishing standards:

(i) in accordance with the provisions of this title; and

(ii) prohibiting a dispensing system to remain at a patron's table.

Section ~~22~~20. Section **32B-5-307** is amended to read:

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

(1) Except as provided in [~~Subsection (3)] Subsections (3) through (5):~~

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

(b) A retail licensee may not allow a person to:

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(i) bring onto licensed premises an alcoholic product for on-premise consumption; or  
(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee.

(c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsections (3)~~[(4)]~~ through (5) and 32B-4-415(5):

(a) a person may not carry from a licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product;

(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a); and

(c) (i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

(i) permitted by the retail licensee; and

(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

~~[(4) A patron may transport beer between the premises of an on-premise banquet license and an on-premise beer retailer license that is not a tavern, and consume the beer on~~

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~~either licensed premises, if the licensed premises are:]~~

~~[(a) immediately adjacent to one another; and]~~

~~[(b) located in a sports center that has a seating capacity of at least 6,500.]~~

(4) A patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:

(a) that is adjacent to the other; and

(b) where the consumption of beer is permitted.

(5) Neither a patron nor a retail licensee violates this section if:

(a) the patron is in shared seating; and

(b) the patron purchased the patron's alcoholic beverage from a restaurant licensee

whose licensed premises include the shared seating area the patron is in.

Section ~~23~~21. Section **32B-6-406** is amended to read:

### **32B-6-406. Specific operational requirements for a bar establishment license.**

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

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

(i) a bar establishment licensee;

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

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

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display in a conspicuous place at the entrance to the licensed premises a sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and that no one under 21 years of age is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the bar establishment licensee, as the department



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requires.

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

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

(4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

- (i) begins at 1 a.m.; and
- (ii) ends at 9:59 a.m.

(b) A bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall keep its licensed premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the bar establishment licensee may finish consuming:

- (A) a single drink containing spirituous liquor;
- (B) a single serving of wine not exceeding five ounces;
- (C) a single serving of heavy beer;
- (D) a single serving of beer not exceeding 26 ounces; or
- (E) a single serving of a flavored malt beverage.

(ii) A bar establishment licensee is not required to remain open:

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

(5) (a) A minor;

~~(i) may not be admitted into, use, or be in [:(i) a lounge or bar area of the premises of: (A) an equity licensee; (B) a fraternal licensee; or (C) a dining club licensee; or (ii)] the licensed premises of:~~

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

(B) a bar licensee, except to the extent provided for under Section 32B-6-406.1[?];

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(ii) may only be admitted into, use, or be in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises:

(A) when accompanied by an individual who is 21 years of age or older; and

(B) momentarily while en route to another area of the licensee's premises; and

(iii) may not remain or sit in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises.

(b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar establishment licensee.

(6) A bar establishment licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the bar establishment licensee including:

(a) a set-up charge;

(b) a service charge; or

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(c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

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

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

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

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

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

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

Section ~~24~~22. Section **32B-6-603** is amended to read:

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

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

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center; ~~or~~

(v) a performing arts facility~~[-];~~ or

(vi) an arena.

(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.

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(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 ~~25~~23. Section **32B-6-605** is amended to read:

### **32B-6-605. Specific operational requirements for on-premise banquet license.**

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

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

(i) an on-premise banquet licensee;

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- (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, 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~~] Subsections 32B-5-307(4) and (5), 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~~] Subsections 32B-5-307(4) and (5), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

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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 (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:

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

(ii) ends at 9:59 a.m[.]; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest room, if the alcoholic product is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(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

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banquet.

(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 ~~(26)~~24. Section **32B-6-702** is amended to read:

### **32B-6-702. Definitions.**

As used in this part~~[-"recreational"]~~:

(1) "Commission-approved activity" means a leisure activity that:

(a) the commission approves by rule made in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act; and

(b) is not a dangerous activity.

(2) "Dangerous activity" means an activity that involves a significant risk of bodily injury.

(3) (a) "Recreational amenity" means:

~~(1)~~ ~~(fa)~~i a billiard parlor;

~~(2)~~ ~~(fb)~~ii a pool parlor;

~~(3)~~ ~~(fc)~~iii a bowling facility;

~~(4)~~ ~~(fd)~~iv a golf course;

~~(5)~~ ~~(fe)~~v miniature golf;

~~(6)~~ ~~(ff)~~vi a golf driving range;

~~(7)~~ ~~(fg)~~vii a tennis club;

~~(8)~~ ~~(fh)~~viii a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;

~~(9)~~ ~~(fi)~~ix a concert venue that has a seating capacity equal to or greater than 6,500;

~~(10)~~ ~~(fj)~~x one of the following if owned by a government agency:

~~(a)~~ ~~(fi)~~A a convention center;

~~(b)~~ ~~(fj)~~B a fair facility;

~~(c)~~ ~~(fij)~~C an equestrian park;

~~(d)~~ ~~(fiv)~~D a theater; or

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~~(e)~~ ~~(iv)~~E a concert venue;

~~(11)~~ ~~(k)~~xi an amusement park:

~~(a)~~ ~~(i)~~A with one or more permanent amusement rides; and

~~(b)~~ ~~(ii)~~B located on at least 50 acres;

~~(12)~~ ~~(l)~~xii a ski resort;

~~(13)~~ ~~(m)~~xiii a venue for live entertainment if the venue:

~~(a)~~ ~~(i)~~A is not regularly open for more than five hours on any day;

~~(b)~~ ~~(ii)~~B is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

~~(c)~~ ~~(iii)~~C is operated so that no more than 15% of its total annual receipts are from the sale of beer; ~~[or]~~

~~(14)~~ ~~(n)~~xiv concessions operated within the boundary of a park administered by the:

~~(a)~~ ~~(i)~~A Division of Parks and Recreation; or

~~(b)~~ ~~(ii)~~B National Parks Service[-];

(xv) an axe throwing facility; or

~~(o)~~xvi an enterprise developed around a commission-approved activity.

(b) "Recreational amenity" does not include an item described in Subsection (3)(a), if the item is tangential to an enterprise or activity that is not included in Subsection (3)(a).

Section ~~{27}~~25. 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]~~ the person's 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.



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(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~~] shall maintain at least 50% of the person's total annual gross receipts from the sale of food, which does not include:

(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 ~~{28}~~26. 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 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 (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.

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(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:

(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 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

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consumed during the event.

(10) (a) Subject to the other provisions of this Subsection (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(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 shall complete an alcohol training and education seminar.

(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.

(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.

(14) Except as provided in Subsection (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 (14)(a); or

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

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

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

(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;

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

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

(16) (a) A reception center licensee may not have an event on the licensed premises [~~except~~] unless the event:

(i) is 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[:]; or

(ii) is a private 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 (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.

(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.

(18) (a) Except as provided in Subsection (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.

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(b) A reception center licensee may operate an event described in Subsection (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 ~~{29}~~27. Section **32B-7-409** is enacted to read:

### **32B-7-409. Multiple licenses on same premises.**

~~The~~(1) Except as provided in Subsection (2), the commission may not issue and ~~one or more~~an off-premise beer retailer state ~~licensees~~licensee may not hold more than one type of license for the same licensed premises or adjacent licensed premises, unless the licensed premises:

- (a) are separated by a permanent, floor-to-ceiling wall;
- (b) each have a separate entrance to the licensed premises; and
- (c) each have separate restroom facilities on the licensed premises.

(2) The commission may issue and an off-premise beer retailer state licensee may hold more than one type of license for the same licensed premises or adjacent licensed premises, if:

- (a) a manufacturing licensee is located on or adjacent to the licensed premises; and
- (b) a package agency is located on or adjacent to the licensed premises.

Section ~~{30}~~28. Section **32B-8-102** is amended to read:

### **32B-8-102. Definitions.**

As used in this chapter:

(1) "Boundary of a resort building" means the physical boundary of the ~~land~~real property reasonably related to a resort building and any structure or improvement to that land as determined by the commission.

(2) "Dwelling" means a portion of a resort building:

- (a) owned by one or more individuals;
- (b) that is used or designated for use as a residence by one or more persons; and
- (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30

consecutive days by a person who uses it for a residence.

(3) "Engaged in the management of the resort" may be defined by the commission by rule.

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~~[(4) "Invitee" means an individual who in accordance with Subsection 32B-8-304 (11) is authorized to use a resort spa by a host who is:]~~

~~[(a) a resident; or]~~

~~[(b) a public customer.]~~

~~[(5) "Provisions applicable to a sublicense" means:]~~

~~[(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;]~~

~~[(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;]~~

~~[(c) for a bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;]~~

~~[(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;]~~

~~[(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and]~~

~~[(f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.]~~

~~[(6) "Public customer" means an individual who holds a customer card in accordance with Subsection 32B-8-304(12).]~~

~~[(7)] (4) "Resident" means an individual who:~~

~~(a) owns a dwelling located within a resort building; or~~

~~(b) rents lodging accommodations for 30 consecutive days or less from:~~

~~(i) an owner of a dwelling described in Subsection [(7)] (4)(a); or~~

~~(ii) the resort licensee.~~

~~[(8)] (5) "Resort" means a location:~~

~~(a) on which is located one resort building; and~~

~~(b) that is affiliated with a ski area that physically touches the boundary of the resort building.~~

~~[(9)] (6) "Resort building" means a building:~~

~~(a) that is primarily operated to provide dwellings or lodging accommodations;~~

~~(b) that has at least 150 units that consist of a dwelling or lodging accommodations;~~

~~(c) that consists of at least 400,000 square feet:~~

~~(i) including only the building itself; and~~

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(ii) not including areas such as above ground surface parking; and

(d) of which at least 50% of the units described in Subsection ~~[(9)]~~ (6)(b) consist of dwellings owned by a person other than the resort licensee.

~~[(10) "Resort spa" means a spa, as defined by rule by the commission, that is within the boundary of a resort building.]~~

~~[(11) "Sublicense" means:]~~

~~[(a) a full-service restaurant sublicense;]~~

~~[(b) a limited-service restaurant sublicense;]~~

~~[(c) a bar establishment sublicense;]~~

~~[(d) an on-premise banquet sublicense;]~~

~~[(e) an on-premise beer retailer sublicense; and]~~

~~[(f) a resort spa sublicense.]~~

~~[(12) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission.]~~

Section ~~{31}~~29. Section **32B-8-201** is amended to read:

### **32B-8-201. Commission's power to issue a resort license.**

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

(2) (a) The commission may issue to a person a resort license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a resort designated in the resort license if the person operates at least four sublicenses under the resort license.

(b) A resort license shall:

(i) consist of:

(A) a general resort license; and

(B) ~~[the]~~ four or more sublicenses; and

(ii) designate the boundary of the resort building.

(c) This chapter does not prohibit an alcoholic product in or on the boundary of the resort building to the extent otherwise permitted by this title.

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~~[(d) The commission may not issue a sublicense that is separate from a resort license.]~~

(3) ~~[(a)]~~ The commission may not issue a total number of resort licenses that at any time totals more than four.

~~[(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.]~~

~~[(c) If a resort license issued under this chapter includes a sublicense that before the issuance of the resort license was a retail licensee under this chapter, the commission shall include the sublicense as one of the retail licenses issued under the provisions applicable to the sublicense in determining if the total number of licenses issued under the provisions applicable to the sublicense exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the sublicense.]~~

Section ~~32~~30. Section **32B-8-202** is amended to read:

### **32B-8-202. Specific licensing requirements for resort license.**

(1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

~~[(a) the current business license for each sublicense, if the business license is separate from the person's business license;]~~

~~[(b)]~~ (a) evidence:

(i) of proximity of the resort building to any community location~~[-with proximity requirements being governed by Section 32B-1-202];~~

(ii) that each ~~[of the four or more sublicense]~~ proposed sublicensed premises is entirely within the boundaries of the resort building; and

(iii) that the building designated in the application as the resort building qualifies as a resort building; and

~~[(c)]~~ (b) a description and boundary map of the resort building~~[-];~~

~~[(d) a description, floor plan, and boundary map of each sublicense premises designating:]~~

~~[(i) any location at which the person proposes that an alcoholic product be stored; and]~~

~~[(ii) a designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;]~~



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~~[(e) evidence that the resort license person carries dramshop insurance coverage equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the general resort license and each sublicense; and]~~

~~[(f) a signed consent form stating that the person will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the boundary of the resort building and each sublicense premises.]~~

(2) (a) A resort license expires on October 31 of each year.

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

(3) (a) The nonrefundable application fee for a resort license is \$300.

(b) The initial license fee for a resort license is calculated as follows:

(i) [~~\$10,000~~] if four sublicenses are being applied for under the resort license, \$10,000;

or

(ii) if more than four sublicenses are being applied for under the resort license, the sum of:

(A) \$10,000; and

(B) \$2,000 for each sublicense in excess of four sublicenses for which the person is applying.

(c) The renewal fee for a resort license is \$1,000 for each sublicense under the resort license.

(4) (a) The bond amount required for a resort license is the penal sum of \$25,000.

(b) A resort licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under the resort license.

(5) The commission may not issue a resort license for a resort building that does not meet the proximity requirements of Section 32B-1-202.

(6) In accordance with Subsection 32B-8d-103(4), a resort licensee may request to add a sublicense after the commission issues the resort licensee's resort license.

Section ~~33~~31. Section **32B-8-401** is amended to read:

**32B-8-401. Specific operational requirements for resort license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

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Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.

(b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) [~~a~~] the resort licensee;

(ii) individual staff of [~~a~~] the resort licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or

(v) any combination of the persons listed in [~~this Subsection (1)(b)~~] Subsections (1)(b)(i) through (iv).

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

(i) on [~~a sublicense~~] sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

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

(i) if on a sublicense premises, in accordance with the operational requirements [~~under the provisions applicable to the sublicense, except as provided in Section 32B-8-402~~] described in Section 32B-8d-104;

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

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

~~[(3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the resort building.]~~

~~[(4)]~~ (3) A resort licensee shall operate in a manner so that at least 70% of the annual

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aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of ~~[its]~~ the resort licensee's sublicenses is from the sale of food, not including:

- (a) mix for an alcoholic product; and
- (b) a charge in connection with the service of an alcoholic product.

~~[(5)]~~ (4) (a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license shall complete the alcohol training and education seminar.

~~[(6)]~~ (5) (a) Room service of an alcoholic product to a lodging accommodation of a resort licensee shall be provided in person by staff of ~~[a]~~ the resort licensee only to an adult occupant in the lodging accommodation.

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

Section ~~{34}~~32. Section **32B-8-501** is amended to read:

### **32B-8-501. Enforcement of qualifications for resort license or sublicense.**

(1) The commission or department may not take an action described in Subsection (2) with regard to a resort license unless the person who is found not to meet the qualifications of ~~[Section 32B-8-203]~~ Subsection 32B-1-304(1) is one of the following who is engaged in the management of the resort:

- (a) a partner;
- (b) a managing agent;
- (c) a manager;
- (d) an officer;
- (e) a director;
- (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation;
- (g) a member who owns at least 20% of the limited liability company; or
- (h) a person employed to act in a supervisory or managerial capacity for the resort licensee.

(2) Subsection (1) applies to:

- (a) the commission immediately suspending or revoking a resort license, if after the

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day on which the resort license is issued, a person described in Subsection [~~32B-8-203(1)~~]  
32B-1-304(7)(a):

(i) is found to have been convicted of an offense described in Subsection  
32B-1-304(1)(a) before the commission issues the resort license [~~is issued~~]; or  
(ii) on or after the day on which the commission issues the resort license [~~is issued~~]:  
(A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i) or (ii); or  
(B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined  
influence of alcohol and a drug; and

(II) was convicted of driving under the influence of alcohol, a drug, or the combined  
influence of alcohol and a drug within five years before the day on which the person is  
convicted of the offense described in Subsection (2)(b)(ii)(A);

(b) the director taking an emergency action by immediately suspending the operation of  
a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for  
the period during which the criminal matter is being adjudicated if a person described in  
Subsection [~~32B-8-203(1)~~] 32B-1-304(7):

(i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i) or  
(ii); or

(ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,  
a drug, or the combined influence of alcohol and a drug; and

(B) was convicted of driving under the influence of alcohol, a drug, or the combined  
influence of alcohol and a drug within five years before the day on which the person is arrested  
on a charge described in Subsection (2)(b)(ii)(A); and

(c) the commission suspending or revoking a resort license because a person to whom  
the commission issues a resort license [~~is issued~~] under this chapter no longer possesses the  
qualifications required by this title for obtaining the resort license.

(3) This section does not prevent the commission from suspending or revoking a  
sublicense that is part of a resort license if a person employed to act in a supervisory or  
managerial capacity for a sublicense no longer meets the qualification requirements in the  
provisions applicable to the sublicense.

Section ~~35~~33. Section **32B-8-502** is amended to read:

**32B-8-502. Enforcement of operational requirements for resort license or**

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### sublicense.

(1) (a) Except as provided in Subsection (2) [~~and in addition to Subsection (3)~~], failure by a person described in Subsection (1)(b) to comply with this chapter or [~~an operational requirement under a provision applicable to a sublicense~~] Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a resort licensee;
- (ii) individual staff of a resort licensee;
- (iii) a sublicense or person otherwise operating under a sublicense;
- (iv) individual staff of a sublicense or person otherwise operating under a sublicense;

or

(v) any combination of the persons listed in [~~this Subsection (1)(a)~~] Subsections (1)(a)(i) through (iv).

(b) This Subsection (1) applies to:

- (i) a resort licensee;
- (ii) a sublicense or person operating under a sublicense of a resort license; or
- (iii) staff of a resort licensee or sublicensee or other person operating under a

sublicense of a resort license.

(2) (a) Notwithstanding the other provisions of this title, if the failure to comply with this chapter described in Subsection (1) relates to a sale, offer for sale, or furnishing of an alcoholic product on [~~a sublicense~~] sublicensed premises, a resort licensee or an individual member of the resort licensee's management personnel is subject to a sanction described in Subsection (1), only if the commission finds that:

(i) during the three years before the day on which the commission makes the finding, there are three or more disciplinary proceedings against any sublicensee or person operating under a sublicense of the resort licensee for failure to comply with an operational requirement applicable to the sublicense; and

(ii) the resort licensee has not taken reasonable steps to prevent persons operating under a sublicense of the resort licensee from failing to comply with operational requirements applicable to the sublicense.

(b) This Subsection (2) applies if the three or more disciplinary proceedings described

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in Subsection (2)(a) are against:

- (i) the same person operating under a sublicense of the resort licensee; or
- (ii) two or more different persons operating under a sublicense of the resort licensee.

~~[(3) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.]~~

Section ~~{36}~~34. Section **32B-8a-101** is amended to read:

### Part 8a. Transfer of Alcohol License Act

#### **32B-8a-101. Title.**

This chapter is known as the "Transfer of [~~Retail~~] Alcohol License Act."

Section ~~{37}~~35. Section **32B-8a-102** is amended to read:

#### **32B-8a-102. Definitions.**

As used in this chapter:

(1) "Alcohol license" means:

- (a) a retail license;
- (b) an off-premise beer retailer state license;
- (c) a brewery manufacturing license;
- (d) a distillery manufacturing license;
- (e) a winery manufacturing license; and
- (f) a special use permit that is an industrial or manufacturing use permit.

~~{+}~~ (2) "Business entity" means a corporation, partnership, limited liability company, sole proprietorship, or similar entity.

~~{2}~~ (3) "Transfer fee" means a fee described in Section 32B-8a-303.

~~{3}~~ (4) "Transferee" means a person who intends to hold [~~a retail~~] an alcohol license after the transfer of the [~~retail~~] alcohol license if the transfer is approved by the commission under this chapter.

~~{4}~~ (5) "Transferor" means [~~a retail~~] an alcohol licensee who intends to transfer [~~a retail~~] an alcohol license held by the [~~retail~~] alcohol licensee if the commission approves the transfer [~~is approved by the commission~~] under this chapter.

Section ~~{38}~~36. Section **32B-8a-201** is amended to read:

#### **32B-8a-201. Transferability of alcohol license.**

(1) (a) [~~A retail~~] An alcohol license is separate from other property of [~~a retail~~] an

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alcohol licensee.

(b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the existence of any type of [~~retail~~] alcohol license.

(c) Except as provided in this chapter, a person may not:

(i) transfer [~~a retail~~] an alcohol license from one location to another location; or

(ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the [~~retail~~] alcohol license to another person whether for monetary gain or not.

(d) If approved by the commission and subject to the requirements of this chapter, [~~a retail~~] an alcohol licensee may transfer [~~a retail~~] the alcohol license:

(i) from the [~~retail~~] alcohol licensee to another person, regardless of whether [~~it~~] the alcohol license is for the same premises; and

(ii) from one premises of the [~~retail~~] alcohol licensee to another premises of the [~~retail~~] alcohol licensee.

(2) (a) The commission may not approve the transfer of [~~a retail~~] an alcohol license that results in a transferee holding a different type of [~~retail~~] alcohol license than is held by the transferor.

(b) [~~The~~] Unless the alcohol license is a bar establishment license, the commission may not approve the transfer of [~~a retail~~] an alcohol license from one location to another location, if the location of the premises to which the [~~retail~~] alcohol license would be transferred is in a different county than the location of the licensed premises of the [~~retail~~] alcohol license being transferred.

(3) The commission may not approve the transfer of [~~a retail~~] an alcohol license if the transferee:

(a) is not eligible to hold the same type of [~~retail~~] alcohol license as the [~~retail~~] alcohol license to be transferred at the premises to which the [~~retail~~] alcohol license would be transferred; or

(b) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a [~~retail~~] alcohol license:

(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or

(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

(4) This chapter does not apply to a:

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- (a) master full-service restaurant license; ~~[or]~~
- (b) master limited-service restaurant license~~[-];~~ or
- (c) master off-premise beer retailer state license.

Section ~~{39}~~37. Section **32B-8a-202** is amended to read:

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

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

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

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

(2) A business entity shall comply with this section within 60 days after the day on which the event described in Subsection (1) occurs.

Section ~~{40}~~38. Section **32B-8a-203** is amended to read:

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

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

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

(ii) after the extension is authorized by the department under Subsection (1)(a)(i), the



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commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee can demonstrate to the commission that the transferee:

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

(B) has obtained a building permit for the improvements described in Subsection

(1)(a)(ii)(A); and

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

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

(i) has a licensed premises that is open for business;

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

(B) manufactures an alcoholic product on the licensed premises described in Subsection (1)(b)(i); or

(C) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection (1)(b)(i); and

~~(iii)~~ (iii) has a valid business license.

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

(a) the [~~retail~~] alcohol license; and

(b) the [~~retail~~] alcohol license fee.

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

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

Section ~~41~~ 39. Section **32B-8a-302** is amended to read:

### **32B-8a-302. Application -- Approval process.**

(1) To obtain the transfer of [~~a retail~~] an alcohol license from [~~a retail~~] an alcohol

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licensee, the transferee shall file a transfer application with the department that includes:

- (a) an application in the form provided by the department;
- (b) a statement as to whether the consideration, if any, to be paid to the transferor

includes payment for transfer of the [~~retail~~] alcohol license;

(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

- (d) (i) an application fee of \$300; and
- (ii) a transfer fee determined in accordance with Section 32B-8a-303.

(2) If the intended transfer of [~~a retail~~] an alcohol license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:

- (a) the name of the transferor;
- (b) the name and address of the business currently associated with the [~~retail~~] alcohol

license;

- (c) instructions for filing a claim with the escrow holder; and
- (d) the projected date that the commission may consider the transfer application.

(3) (a) (i) Before the commission may approve the transfer of [~~a retail~~] an alcohol license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the [~~retail~~] alcohol license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

- (i) determine that the transferee filed a complete application;
- (ii) determine that the transferee is eligible to hold the type of [~~retail~~] alcohol license

that is to be transferred at the premises to which the [~~retail~~] alcohol license would be transferred;

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

- (iv) determine that the transferee is not disqualified under Section 32B-1-304;

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(v) consider the locality within which the proposed licensed premises is located, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vii) consider the nature or type of [~~retail~~] alcohol licensee operation of the transferee, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not

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approve the transfer of [~~a retail~~] an alcohol license to premises that do not meet the proximity requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as applicable.

Section ~~{42}~~40. Section **32B-8a-303** is amended to read:

### **32B-8a-303. Transfer fees.**

(1) Except as otherwise provided in this section, the department shall charge the following transfer fees:

(a) for a transfer of [~~a retail~~] an alcohol license from [~~a retail~~] an alcohol licensee to another person, the transfer fee equals the initial license fee amount specified in the relevant chapter or part [under Chapter 6, Specific Retail License Act,] for the type of [~~retail~~] alcohol license that is being transferred;

(b) for the transfer of [~~a retail~~] an alcohol license from one premises to another premises of the same [~~retail~~] alcohol licensee, the transfer fee equals the renewal fee amount specified in the relevant chapter or part [under Chapter 6, Specific Retail License Act,] for the type of [~~retail~~] alcohol license that is being transferred;

(c) subject to Subsections (1)(d) and (2), for a transfer described in Section 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant chapter or part [under Chapter 6, Specific Retail License Act,] for the type of [~~retail~~] alcohol license that is being transferred;

(d) for a transfer of [~~a retail~~] an alcohol license to include the parent or adult child of [~~a retail~~] an alcohol licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection (1)(a); and

(e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection (1)(a):

(i) [~~a retail~~] an alcohol license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;

(ii) [~~a retail~~] an alcohol license of a deceased [~~retail~~] alcohol licensee to:

(A) the one or more surviving partners of the deceased [~~retail~~] alcohol licensee;

(B) the executor, administrator, or conservator of the estate of the deceased [~~retail~~] alcohol licensee; or

(C) the surviving spouse of the deceased [~~retail~~] alcohol licensee, if the deceased

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[~~retail~~] alcohol licensee leaves no estate to be administered;

(iii) [~~a retail~~] an alcohol license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the [~~retail~~] alcohol licensee;

(iv) [~~a retail~~] an alcohol license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the [~~retail~~] alcohol licensee;

(v) [~~a retail~~] an alcohol license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the [~~retail~~] alcohol licensee;

(vi) [~~a retail~~] an alcohol license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;

(vii) [~~a retail~~] an alcohol license transferred to a revocable living trust if the [~~retail~~] alcohol licensee is the trustee of the revocable living trust;

(viii) [~~a retail~~] an alcohol license transferred between partners when no new partner is being licensed;

(ix) [~~a retail~~] an alcohol license transferred between corporations whose outstanding shares of stock are owned by the same individuals;

(x) upon compliance with Section 32B-8a-202, [~~a retail~~] an alcohol license to a corporation whose entire stock is owned by:

- (A) the transferor; or
- (B) the spouse of the transferor;

(xi) upon compliance with Section 32B-8a-202, [~~a retail~~] an alcohol license to a limited liability company whose entire membership consists of:

- (A) the transferor; or
- (B) the spouse of the transferor; or

(xii) [~~a retail~~] an alcohol license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.

(2) If there are multiple and simultaneous transfers of [~~retail~~] alcohol licenses under Section 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the [~~retail~~] alcohol licenses being transferred.

(3) (a) Except as provided in Subsection (3)(b), a transfer fee required under Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the

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subsequent transfer is of 51% of the stock in a corporation to which [~~a retail~~] an alcohol license is transferred by [~~a retail~~] an alcohol licensee or the spouse of [~~a retail~~] an alcohol licensee.

(b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).

(4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

Section ~~(43)~~41. Section **32B-8a-401** is amended to read:

### **32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.**

(1) Before the filing of a transfer application with the department, if the intended transfer of [~~a retail~~] an alcohol license involves consideration:

(a) the transferor shall provide the transferee a list of creditors who have a claim against the transferor;

(b) the transferee shall notify each creditor on the list provided under Subsection (1)(a) of the intended transfer;

(c) the transferor and the transferee shall establish an escrow with a person who is not a party to the transfer to act as escrow holder;

(d) the transferee shall deposit with the escrow holder the full amount of the consideration; and

(e) the transferor and transferee shall enter into an agreement that:

(i) the consideration is deposited with the escrow holder;

(ii) requires the escrow holder to distribute the consideration within a reasonable time after the completion of the transfer of the [~~retail~~] alcohol license; and

(iii) directs the escrow holder to distribute the consideration in accordance with Subsection (2).

(2) Subject to the other requirements of this section, if a creditor with a claim against the transferor files the claim with the escrow holder before the escrow holder is notified by the department that the transfer is approved, the escrow holder shall distribute the consideration in the following order:

(a) to the payment of:

(i) the United States for a claim based on income or withholding taxes; and

(ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);

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(b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued by an employee of the transferor before the transfer or opening of the escrow for the transfer of the [~~retail~~] alcohol license;

(c) to the payment of a claim of a secured creditor to the extent of the proceeds that arise from the sale of the security;

(d) to the payment of a claim on a mechanics lien;

(e) to the payment of:

(i) escrow fees;

(ii) a claim for prevailing brokerage fees for services rendered; and

(iii) a claim for reasonable attorney fees for services rendered;

(f) to the payment of claims:

(i) of a landlord, to the extent of proceeds on past due rent or lease requirements;

(ii) for goods sold and delivered to the [~~retail~~] alcohol licensee for resale at the transferor's licensed premises; and

(iii) for services rendered, performed, or supplied in connection with the operation of the transferor's licensed business;

(g) to the payment of other types of claims that are reduced to court-ordered judgments, including a claim for court-ordered support of a minor child; and

(h) to the payment of all other claims.

Section ~~{44}~~42. Section **32B-8a-402** is amended to read:

### **32B-8a-402. Duties of escrow holder.**

(1) To act as an escrow holder under Section 32B-8a-401, a person shall comply with Title 7, Chapter 22, Regulation of Independent Escrow Agents.

(2) Not more than 10 days after [~~receiving~~] the day on which the escrow holder receives a claim from a creditor, an escrow holder shall acknowledge receipt of the claim.

(3) (a) Not more than 10 days after [~~a retail~~] the day on which an alcohol license is transferred and before the distribution of the consideration held by an escrow holder, the escrow holder shall advise each creditor who files a claim against the escrow whether there is sufficient consideration in the escrow to pay all creditors in full.

(b) If the consideration in an escrow is sufficient to pay all creditors in full, the escrow holder shall advise each creditor of the date on or before which payment will be made.

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(c) If there are not sufficient assets to pay all creditors in full, the escrow holder shall advise each creditor who filed a claim of the following:

(i) the total assets placed in escrow with the escrow holder;

(ii) the nature of each asset;

(iii) the name of each creditor who filed a claim against the escrow and the amount of the claim;

(iv) the amount the escrow holder proposes to pay each creditor; and

(v) the date on or before which the escrow holder will pay each creditor.

(4) An escrow holder may not release money in the escrow in exchange for:

(a) a promissory note; or

(b) any other consideration of less value to the creditors than the money exchanged.

(5) If sufficient assets are not available in the escrow for the payment of the claims in full, the escrow holder shall pay the claims pro rata.

(6) If the [~~retail~~] alcohol licensee who transfers the [~~retail~~] alcohol license disputes a claim, the escrow holder shall:

(a) notify the creditor making the claim;

(b) retain the amount to be paid to the creditor under this section for a period of 25 days; and

(c) to the extent that creditors do not successfully recover the amount described in Subsection (6)(b) in accordance with this part, pay the amount to the [~~retail~~] alcohol licensee.

(7) An escrow holder shall distribute the money in the escrow account after the payments made under Subsections 32B-8a-401(2) and this section within a reasonable time after the completion of the transfer of the [~~retail~~] alcohol license.

Section ~~{45}~~43. Section **32B-8a-404** is amended to read:

### **32B-8a-404. When escrow not required.**

(1) Notwithstanding the other provisions of this part, an escrow is not required to be established in connection with the transfer of [~~a retail~~] an alcohol license if:

(a) a business entity files with the department a guaranty of full, prompt, and faithful payment of all claims of a creditor of the [~~retail~~] alcohol licensee; and

(b) the guaranty described in Subsection (1)(a) is accepted in writing by the creditors listed in Subsection 32B-8a-401(2).



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(2) A transfer of [~~a retail~~] an alcohol license described in Subsection (1) is not considered complete until:

- (a) the guarantor pays all creditors' claims in full; and
- (b) the guarantor files with the department a statement executed under penalty of perjury that all conditions of the transfer have been satisfied.

(3) Payment of a claim by a guarantor shall be made in United States currency or by certified check in a manner acceptable to the creditors.

(4) This section applies only in the case of a transfer in which the guarantor business entity has a net worth on a consolidated basis, according to [~~its~~] the guarantor business entity's most recent audited financial statement, of not less than \$5,000,000.

Section ~~{46}~~44. Section **32B-8a-501** is amended to read:

### **32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

(1) [~~A retail~~] An alcohol licensee may not enter into any agreement under which the [~~retail~~] alcohol licensee pledges the [~~retail~~] alcohol license as security for a loan or as security for the fulfillment of any agreement.

(2) [~~A retail~~] An alcohol licensee may not transfer [~~a retail~~] an alcohol license if the transfer is to:

- (a) satisfy a loan or to fulfill an agreement entered into more than 90 days [~~preceding the date~~] before the day on which the transfer application is filed;
- (b) gain or establish a preference to or for any creditor of the transferor, except as provided by Section 32B-8a-202; or
- (c) defraud or injure a creditor of the transferor.

(3) An alcohol licensee may not transfer a bar establishment license in a manner that circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).

~~{3}~~ (4) [~~A retail~~] An alcohol licensee may not transfer [~~a retail~~] an alcohol license except in accordance with this chapter.

Section ~~{47}~~45. Section **32B-8a-502** is amended to read:

### **32B-8a-502. Effect of transfer in violation of this chapter.**

(1) If [~~a retail~~] an alcohol license is transferred in violation of this chapter, the commission may:

- (a) void the transfer; and

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(b) require the ~~[retail]~~ alcohol license to be forfeited.

(2) Subsection (1) is in addition to any other penalty under this title that is applicable to the person who violates this chapter.

Section ~~{48}~~46. Section **32B-8b-102** is amended to read:

### **32B-8b-102. Definitions.**

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real ~~[estate]~~ property owned or managed by the same person and on which a hotel is located.

(2) "Hotel" means one or more buildings that:

(a) comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) provide room service within the boundary of the hotel meeting the requirements of this title;

(e) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(f) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 guest rooms.

~~[(3) "Provisions applicable to a sublicense" means:]~~

~~[(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;]~~

~~[(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;]~~

~~[(c) for a bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;]~~

~~[(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;]~~

~~[(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer~~

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Retailer License; and]

~~[(f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant License:]~~

~~[(4) "Sublicense" means:]~~

~~[(a) a full-service restaurant sublicense;]~~

~~[(b) a limited-service restaurant sublicense;]~~

~~[(c) a bar establishment sublicense;]~~

~~[(d) an on-premise banquet sublicense;]~~

~~[(e) an on-premise beer retailer sublicense; and]~~

~~[(f) a beer-only restaurant sublicense:]~~

~~[(5) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission:]~~

Section ~~{49}~~47. Section **32B-8b-201** is amended to read:

### **32B-8b-201. Commission's power to issue a hotel license.**

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

(2) (a) The commission may issue to a person a hotel license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel designated in the hotel license if the person operates at least three sublicenses under the hotel license:

(i) one of which is an on-premise banquet license; and

(ii) one of which is ~~[a sublicense for a restaurant or bar establishment:]~~;

(A) a full-service restaurant sublicense;

(B) a limited-service restaurant sublicense;

(C) a beer-only restaurant sublicense; or

(D) a bar establishment sublicense.

(b) A hotel license shall:

(i) consist of:

(A) a general hotel license; and

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(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the boundary of the hotel and sublicenses.

(c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to the extent otherwise permitted by this title.

~~[(d) The commission may not issue a sublicense that is separate from a hotel license.]~~

(3) ~~[(a)]~~ The commission may not issue a total number of hotel licenses that at any time totals more than 80.

~~[(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.]~~

~~[(c) If a hotel license issued under this chapter includes a bar establishment sublicense that before the issuance of the hotel license was a bar establishment license, the commission shall include the bar establishment sublicense as one of the bar establishment licenses in determining if the total number of licenses issued under the provisions applicable to the bar establishment license exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the bar establishment license.]~~

~~[(d) A person may not transfer a bar establishment license under Chapter 8a, Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection (3)(c).]~~

Section ~~{50}~~48. Section **32B-8b-202** is amended to read:

### **32B-8b-202. Specific licensing requirements for hotel license.**

(1) To obtain a hotel license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

~~[(a) the current business license for each sublicense, if the business license is separate from the person's business license;]~~

~~[(b)]~~ (a) evidence:

(i) of proximity of each building under the hotel license to any community location~~;~~  
~~with proximity requirements being governed by Section 32B-1-202];~~

(ii) that each ~~[of the three or more sublicense]~~ proposed sublicensed premises is entirely within the boundary of the hotel; and

(iii) that ~~[a]~~ each building designated in the application as a building under the hotel license qualifies to be under the hotel license; and

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~~[(c)] (b) a description and boundary map of the hotel[;].~~

~~[(d) a description, floor plan, and boundary map of each sublicense premises designating:]~~

~~[(i) any location at which the person proposes that an alcoholic product be stored; and]~~

~~[(ii) a designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;]~~

~~[(e) evidence that the hotel licensee carries dramshop insurance coverage equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the general hotel license and each sublicense; and]~~

~~[(f) a signed consent form stating that the person will permit any authorized representative of the commission or department, or any law enforcement officer, to have unrestricted right to enter the boundary of the hotel and each sublicense premises.]~~

(2) (a) A hotel license expires on October 31 of each year.

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

(3) (a) The nonrefundable application fee for a hotel license is \$500.

(b) The initial license fee for a hotel license is calculated as follows:

(i) ~~[\$5,000]~~ if three sublicenses are being applied for under the hotel license, \$5,000; or

(ii) if more than three sublicenses are being applied for under the hotel license, the sum of:

(A) \$5,000; and

(B) \$2,000 for each sublicense in excess of three sublicenses for which the person is applying.

(c) The renewal fee for a hotel license is \$1,000 for each sublicense under the hotel license.

(4) (a) The bond amount required for a hotel license is the penal sum of \$10,000.

(b) A hotel licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the hotel licensee shall cover each sublicense under the hotel license.

(5) The commission may not issue a hotel license that includes a building under the hotel license that does not meet the proximity requirements of Section 32B-1-202.

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(6) In accordance with Subsection 32B-8d-103(4), a hotel licensee may request to add a sublicense after the commission issues the hotel licensee's hotel license.

Section ~~{51}~~49. Section **32B-8b-301** is amended to read:

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

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

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

(i) [~~a~~] the hotel licensee;

(ii) individual staff of [~~a~~] the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

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

(i) on [~~a sublicense~~] sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

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

(i) [~~except as provided in Section 32B-8b-302,~~] if on [~~a sublicense~~] sublicensed premises, in accordance with the operational requirements [~~under the provisions applicable to the sublicense~~] described in Section 32B-8d-104;

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

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

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

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

~~[(4)]~~ (3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

~~[(5)]~~ (4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of [a] the hotel licensee only to an adult occupant in the lodging accommodation.

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

~~[(6)]~~ (7) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

- (a) mix for an alcoholic product; and
- (b) a charge in connection with the service of an alcoholic product.

Section ~~{52}~~ 50. Section **32B-8b-401** is amended to read:

**32B-8b-401. Enforcement of operational requirements for hotel license or sublicense.**

~~[(1)(a)]~~ (1) Failure by a person described in Subsection ~~[(1)(b)]~~ (2) to comply with this chapter or ~~[an operational requirement under a provision applicable to a sublicense]~~ Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

~~[(i)]~~ (a) [a] the hotel licensee;

~~[(ii)]~~ (b) individual staff of [a] the hotel licensee;

~~[(iii)]~~ (c) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

~~[(iv)]~~ (d) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

~~[(v)]~~ (e) any combination of the persons listed in this Subsection (1)~~[(a)]~~.

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~~[(b)]~~ ~~(2)~~ ~~[This]~~ Subsection (1) applies to:

~~[(i)]~~ ~~(a)~~ a hotel licensee;

~~[(ii)]~~ ~~(b)~~ a sublicensee or person operating under a sublicense of a hotel licensee; or

~~[(iii)]~~ ~~(c)~~ staff of a hotel licensee or sublicensee or other person operating under a sublicense of a hotel licensee.

~~[(2) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.]~~

Section ~~{53}~~51. Section **32B-8c-101** is enacted to read:

### CHAPTER 8c. ARENA LICENSE ACT

#### **32B-8c-101. Title.**

This chapter is known as the "Arena License Act."

Section ~~{54}~~52. Section **32B-8c-102** is enacted to read:

#### **32B-8c-102. Definitions.**

Reserved

Section ~~{55}~~53. Section **32B-8c-201** is enacted to read:

#### **32B-8c-201. Commission's power to issue an arena license.**

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

(2) (a) Beginning November 1, 2020, the commission may issue to a person an arena license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with the arena designated in the arena license, if the person operates at least three sublicenses under the arena license, including:

(i) one of which is an on-premise banquet sublicense;

(ii) one of which is:

(A) a full-service restaurant sublicense;

(B) a limited-service restaurant sublicense;

(C) a beer-only restaurant sublicense; or

(D) a bar establishment sublicense; and

(iii) one of which is an on-premise beer retailer sublicense that is not a tavern.

(b) An arena license shall:



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(i) consist of:

(A) a general arena license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the enclosed building that is the arena.

(c) This chapter does not prohibit an alcoholic product in an arena to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of arena licenses that at any time totals more than 10.

Section ~~56~~54. Section **32B-8c-202** is enacted to read:

### **32B-8c-202. Specific licensing requirements for arena license.**

(1) To obtain an arena license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of the arena to any community location;

(ii) that each proposed sublicense premises is entirely within the arena; and

(iii) that the building designated in the application as the arena qualifies as an arena;

and

(b) a description and map of the arena.

(2) (a) An arena license expires on October 31 of each year.

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

(3) (a) The nonrefundable application fee for an arena license is \$500.

(b) The initial license fee for an arena license is calculated as follows:

(i) if the person applies for three sublicenses under the arena license, \$5,000; or

(ii) if the person applies for more than three sublicenses under the arena license, the

sum of:

(A) \$5,000; and

(B) \$1,000 for each sublicense in excess of three sublicenses for which the person applies.

(c) The renewal fee for an arena license is \$1,000 plus \$1,000 for each sublicense under the arena license.

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(4) (a) The bond amount required for an arena license is the penal sum of \$100,000.

(b) An arena licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the arena licensee shall cover each sublicense under the arena license.

(5) In accordance with Subsection 32B-8d-103(4), an arena may request to add a sublicense after the commission issues the arena licensee's arena license.

Section ~~{57}~~55. Section **32B-8c-301** is enacted to read:

### **32B-8c-301. Specific operational requirements for arena license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensing Operational Requirements, an arena licensee, staff of the arena licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

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

(i) the arena licensee;

(ii) individual staff of the arena licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the arena licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense;

or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

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

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

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

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational

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requirements under the provisions applicable to the permit; and

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

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

(a) mix for an alcoholic product; and

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

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

Section ~~{58}~~56. Section **32B-8c-401** is enacted to read:

### **32B-8c-401. Enforcement.**

(1) Failure by a person described in Subsection (2) to comply with this chapter or Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) the arena licensee;

(b) individual staff of the arena licensee;

(c) a sublicensee or a person otherwise operating under a sublicense of the arena licensee;

(d) individual staff of a sublicensee or person otherwise operating under a sublicense of the arena licensee; or

(e) any combination of the persons listed in Subsections (1)(a) through (d).

(2) Subsection (1) applies to:

(a) an arena licensee;

(b) a sublicensee or person operating under a sublicense of an arena licensee;

(c) staff of an arena licensee or sublicensee or other person operating under a sublicense of the arena licensee.

Section ~~{59}~~57. Section **32B-8d-101** is enacted to read:

## CHAPTER 8d. SUBLICENSE ACT

### **32B-8d-101. Title.**

This chapter is known as the "Sublicense Act."

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Section ~~{60}~~58. Section **32B-8d-102** is enacted to read:

### **32B-8d-102. Definitions.**

As used in this chapter:

(1) "Hospitality guest" means an individual:

(a) (i) who is a resident;

(ii) for whom an owner of a dwelling located within a resort building provides lodging accommodations;

(iii) for whom a hotel licensee provides lodging accommodations; or

(iv) for whom a resort licensee provides lodging accommodations; and

(b) who is at least 21 years of age.

~~{~~ (2) "Invitee" means an individual who in accordance with this part is authorized to use a resort spa by a host who is a resident.

~~}~~ ~~{3}~~2 "Resident" means the same as that term is defined in Section 32B-8-102.

~~{4}~~3 "Resort building" means the same as that term is defined in Section 32B-8-102.

~~{5}~~4 "Resort spa" means a spa:

(a) as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) that is within the boundary of a resort building.

Section ~~{61}~~59. Section **32B-8d-103** is enacted to read:

### **32B-8d-103. Commission's power to issue a sublicense.**

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

(a) this chapter;

(b) Chapter 8, Resort License Act;

(c) Chapter 8b, Hotel License Act; and

(d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

(i) a principal licensee; or

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(ii) a person seeking a principal license, contingent on the issuance of the principal license.

(b) The commission may not:

(i) issue a sublicense that is separate from a principal license; or

(ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) (a) Subject to Subsections (3)(b) and (c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

(b) If a principal license includes a bar establishment sublicense that before the issuance of the principal license was a bar establishment license, the commission shall include the bar establishment sublicense as a bar establishment license in calculating the total number of licenses issued under the provisions applicable to a bar establishment license.

(c) If a resort license includes a sublicense that before the issuance of the resort license was a retail license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.

(4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:

(a) a nonrefundable \$300 application fee;

(b) an initial license fee of \$2,250, which the commission shall refund if the commission does not issue the proposed sublicense;

(c) written consent of the local authority;

(d) a copy of:

(i) the principal licensee's current business; and

(ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;

(e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;

(f) a description, floor plan, and boundary map of the proposed sublicensed premises

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designating:

(i) each location at which the principal licensee proposes that an alcoholic product be stored; and

(ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;

(g) evidence that the principal licensee carries:

(i) public liability insurance in an amount and form satisfactory to the department; and

(ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;

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

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

(j) any other information the commission or department may require.

Section ~~62~~60. Section **32B-8d-104** is enacted to read:

### **32B-8d-104. General operational requirements for a sublicense.**

(1) Except as provided in Subsections (2) and (3), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), 32B-8b-301(7), and 32B-8c-301(3).

(3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a sublicensed premises operated under a full-service restaurant sublicense or a limited-service restaurant sublicense is considered a grandfathered bar structure if the sublicense is a sublicense to a resort license issued on or before December 31, 2010.

(4) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

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

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

Section ~~{63}~~61. Section **32B-8d-105** is enacted to read:

### **32B-8d-105. Enforcement of operational requirements.**

(1) Except as provided in Subsection 32B-8-502(2) and in addition to Subsection (2), failure by a person to comply with this chapter or an operational requirement under a provision applicable to a sublicense may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) a principal licensee;

(b) individual staff of a principal licensee;

(c) a sublicensee or person otherwise operating under a sublicense;

(d) individual staff of a sublicensee or person otherwise operating under a sublicense;

or

(e) any combination of the persons listed in Subsections (1)(a) through (d).

(2) An operational requirement applicable to a sublicensee or person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.

Section ~~{64}~~62. Section **32B-8d-201** is enacted to read:

### **Part 2. Resort Spa Sublicense**

#### **32B-8d-201. Title.**

This part is known as "Resort Spa Sublicense."

Section ~~{65}~~63. Section **32B-8d-202**, which is renumbered from Section 32B-8-301 is renumbered and amended to read:

~~[32B-8-301].~~ **32B-8d-202. Commission's power to issue resort spa sublicense.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [its] the person's premises as a resort spa sublicensee, a resort licensee or a person applying for a resort license shall first obtain a resort spa sublicense from the commission in accordance with this part.

(2) The commission may only issue a resort spa sublicense to [~~establish a resort spa~~

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~~license within the boundary of a resort building for the storage, sale, offer for sale, furnishing, and consumption of liquor on premises operated as a resort spa.];~~

(a) a resort licensee; or

(b) a person applying for a resort license, contingent on the issuance of the resort license.

(3) The resort spa sublicense premises shall fall entirely within the boundary of a resort building that is part of the resort to which the resort spa sublicense is connected.

Section ~~{66}~~64. Section **32B-8d-203**, which is renumbered from Section 32B-8-302 is renumbered and amended to read:

~~[32B-8-302].~~        **32B-8d-203. Specific licensing requirements for resort spa sublicense.**

(1) ~~(a)~~ ~~[A]~~ In accordance with Subsection 32B-8d-103(2), a person may not file a written application with the department to obtain a resort spa sublicense that is separate from the application of the resort license, unless the person seeks the resort spa sublicense [is being sought] after the [issuing of] commission issues the person a resort license.

~~{2}~~ (b) If a resort licensee seeks to add a resort spa sublicense after its resort license is issued, the resort licensee shall comply with Subsection ~~[32B-8-204(3)(b)]~~ 32B-8d-103(4).

~~{3}~~ (2) (a) A resort spa sublicense expires on October 31 of each year.

(b) A resort licensee desiring to renew the resort licensee's resort spa sublicense shall renew the resort spa sublicense as part of renewing the resort license.

(c) Failure to meet the renewal requirements for a resort license results in an automatic forfeiture of the resort spa sublicense effective on the date the resort license expires.

Section ~~{67}~~65. Section **32B-8d-204**, which is renumbered from Section 32B-8-303 is renumbered and amended to read:

~~[32B-8-303].~~        **32B-8d-204. Specific qualifications for resort spa sublicense.**

(1) A person employed to act in a supervisory or managerial capacity for the resort spa sublicense is subject to qualification requirements of Section ~~[32B-8-203]~~ 32B-1-304 for licensees.

(2) If a person no longer possesses the qualifications required by Section ~~[32B-8-203]~~ 32B-1-304 for obtaining the resort license or resort spa sublicense, the commission may suspend or revoke the resort spa sublicense that is part of the resort license.



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Section ~~{68}~~66. Section **32B-8d-205**, which is renumbered from Section 32B-8-304 is renumbered and amended to read:

~~[32B-8-304].~~        **32B-8d-205**. **Specific operational requirements for resort spa sublicense.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee~~[-]~~ and staff of the resort licensee~~[-]~~~~or a person otherwise related to a resort spa sublicense]~~ shall comply with this section.

(b) A resort spa sublicensee or a person otherwise operating under a resort spa sublicense and staff of a resort spa sublicensee or a person otherwise operating under a resort spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the resort spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

~~[(b)]~~ (c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a ~~[retail]~~ resort licensee;

(ii) staff of the ~~[retail]~~ resort licensee;

(iii) a resort spa sublicensee or person otherwise ~~[related to]~~ operating under a resort spa sublicense; ~~[or]~~

(iv) individual staff of a resort spa sublicensee or person otherwise operating under a resort spa sublicense; or

~~[(iv)]~~ (v) any combination of the persons listed in ~~[this Subsection (1)(b)]~~ Subsections (1)(c)(i) through (iv).

(2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that ~~[a record required by this title is maintained, and]~~ a record is maintained or used for the resort spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A resort spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

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(c) A resort licensee shall allow the department, through [~~an auditor or examiner~~] a compliance officer of the department, to audit the records for a resort spa sublicense at the times the department considers advisable.

(d) The department shall audit the records for a resort spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A resort spa sublicensee or person operating under a resort spa sublicense may not sell, offer for sale, or furnish liquor at a resort spa during a period that:

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

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

(b) A resort spa sublicensee or person operating under a resort spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for one hour after the resort spa ceases the sale and furnishing of an alcoholic product during which time a person at the resort spa may finish consuming:

(A) a single drink containing spirituous liquor;

(B) a single serving of wine not exceeding five ounces;

(C) a single serving of heavy beer;

(D) a single serving of beer not exceeding 26 ounces; or

(E) a single serving of a flavored malt beverage.

(ii) A resort spa is not required to remain open:

(A) after all [~~persons~~] individuals have vacated the resort spa [~~sublicense~~] sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on [~~-(a)~~] the [~~sublicense~~] sublicensed premises of a resort spa sublicense unless accompanied by [~~a person~~] an individual 21 years of age or older [~~;-or~~].

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a resort spa sublicense:

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~~(b)~~ (i) may only be admitted into or be on a lounge or bar area of the resort spa [sublicense] sublicensee's sublicensed premises[:] momentarily while en route to another area of the resort spa; and

(ii) may not remain or sit in the lounge or bar area of the resort spa sublicensee's sublicensed premises.

(5) A resort spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the resort spa [sublicense] sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A resort spa patron may not have two spirituous liquor drinks before the resort spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A resort spa sublicensee or person operating under a resort spa sublicense shall have available on the resort spa [sublicense] sublicensee's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the resort spa sublicensee including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

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(9) (a) A resort licensee shall own or lease premises suitable for the resort ~~[spa's]~~ spa sublicense's activities.

(b) A resort licensee may not maintain premises in a manner that barricades or conceals the resort spa sublicense's operation.

(10) Subject to the other provisions of this section, a resort spa sublicensee or person operating under a resort spa sublicense may not sell an alcoholic product to or allow ~~[a person]~~ an individual to be admitted to or use the resort spa ~~[sublicense]~~ sublicensee's sublicensed premises other than:

(a) a resident; or

(b) a customer.

~~[(b) a {} public {} customer {} who holds a valid customer card issued under Subsection (12) {}]; or]~~

~~[(c) an invitee.]~~

~~[(11) A person operating under a resort spa sublicense may allow an individual to be admitted to or use the resort spa sublicense premises as an invitee subject to the following conditions:]~~

~~[(a) the individual shall be previously authorized by one of the following who agrees to host the individual as an invitee into the resort spa:]~~

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

~~[(ii) a public customer as described in Subsection (10);]~~

~~[(b) the individual has only those privileges derived from the individual's host for the duration of the invitee's visit to the resort spa; and]~~

~~[(c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter into an agreement or arrangement with a resident or public customer to indiscriminately host a member of the general public into the resort spa as an invitee.]~~

~~[(12) A person operating under a resort spa sublicense may issue a customer card to allow an individual to enter and use the resort spa sublicense premises on a temporary basis under the following conditions:]~~

~~[(a) the resort spa may not issue a customer card for a time period that exceeds three weeks;]~~

~~[(b) the resort spa shall assess a fee to a public customer for a customer card;]~~

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~~[(c) the resort spa may not issue a customer card to a minor; and]~~

~~[(d) a public customer may not host more than seven invitees at one time.]~~

Section ~~{69}~~67. Section **32B-8d-301** is enacted to read:

### **Part 3. Hospitality Amenity Sublicense**

#### **32B-8d-301. Hospitality Amenity Sublicense.**

This part is known as "Hospitality Amenity Sublicense."

Section ~~{70}~~68. Section **32B-8d-302** is enacted to read:

#### **32B-8d-302. Commission's power to issue a hospitality amenity sublicense.**

(1) Before a person may store, sell, offer for sale, furnish, or allow consumption of an alcoholic product on the person's premises as a hospitality amenity sublicensee, the person shall first obtain a hospitality amenity sublicense from the commission in accordance with this part.

(2) Beginning November 1, 2020, the commission may issue to a person a hospitality amenity sublicense in accordance with this part.

(3) The commission may only issue a hospitality amenity sublicense to:

(a) a hotel licensee;

(b) a resort licensee; or

(c) a person applying for a hotel license or a resort license, contingent on the issuance of the hotel license or resort license.

(4) A hospitality amenity sublicense's sublicensed premises shall fall entirely within the boundary of the hotel or resort to which the sublicense is connected.

Section ~~{71}~~69. Section **32B-8d-303** is enacted to read:

#### **32B-8d-303. Specific licensing requirements for a hospitality amenity sublicense.**

(1) In accordance with Subsection 38B-8d-103(2), a person may not file a written application with the department to obtain a hospitality amenity sublicense that is separate from the person's application to obtain a hotel or resort license, unless the person seeks the hospitality amenity sublicense after the commission issues the person a hotel or resort license.

(2) If a person seeks to add a hospitality amenity sublicense after the person obtains a hotel or resort license, the licensee shall comply with Subsection 32B-8d-103(4).

(3) (a) A hospitality amenity sublicense expires on October 31 of each year.

(b) A licensee that seeks to renew the licensee's hospitality amenity sublicense shall

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renew the hospitality amenity sublicense as part of renewing the licensee's hotel or resort license.

(c) Failure to meet the renewal requirements for a hotel or resort license results in an automatic forfeiture of the hospitality amenity sublicense effective on the date the hotel or resort license expires.

Section ~~72~~70. Section **32B-8d-304** is enacted to read:

### **32B-8d-304. Specific operational requirements for hospitality amenity sublicense.**

(1) (a) In addition to complying with the provisions applicable to a retail licensee under Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel or resort licensee and staff of a hotel or resort licensee shall comply with this section.

(b) A hospitality amenity sublicensee or a person otherwise operating under a hospitality amenity sublicense and staff of a hospitality amenity sublicensee or a person otherwise operating under a hospitality amenity sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the hospitality amenity sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

(c) As described in Section 32B-8b-401, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a hotel or resort licensee;

(ii) individual staff of a hotel or resort licensee;

(iii) a hospitality amenity sublicensee or person otherwise operating under a hospitality amenity sublicense;

(iv) individual staff of a hospitality amenity sublicensee or person otherwise operating under a hospitality amenity sublicense; or

(v) any combination of the persons listed in Subsections (1)(c)(i) through (iv).

(2) (a) Subject to the provisions of this section, a hospitality amenity sublicensee may sell, offer for sale, or furnish an alcoholic product:

(i) to a hospitality guest; and

(ii) for consumption on the hospitality amenity sublicensee's sublicensed premises.

(b) (i) A hospitality amenity sublicensee may sell, offer for sale, or furnish an alcoholic

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product that is not spirituous liquor in or on sublicensed premises:

(A) physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) described in Subsection (2)(b)(ii).

(ii) A hospitality amenity sublicensee may sell, offer for sale, or furnish spirituous liquor in or on sublicensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the boundaries of the hotel or resort.

(c) Spirituous liquor may not be in or on the sublicensed premises of a hospitality amenity sublicensee as described in Subsection (2)(b)(i)(A), except for use:

(i) as a flavoring on a dessert; or

(ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity sublicensee may not allow self-service of an alcoholic product in or on the hospitality amenity sublicensee's sublicensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(4) A hospitality amenity sublicensee shall make food available at all times that the sublicensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the sublicensed premises.

(5) (a) A hospitality amenity sublicensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

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

(b) A hospitality amenity sublicensee shall remain open for one hour after the sublicensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest at the hospitality amenity may finish consuming:

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- (i) a single drink containing spirituous liquor;
- (ii) a single serving of wine not exceeding five ounces;
- (iii) a single serving of heavy beer;
- (iv) a single serving of beer not exceeding 26 ounces; or
- (v) a single serving of a flavored malt beverage.

(c) A hospitality amenity sublicensee is not required to remain open:

- (i) after all individuals have vacated the sublicensee's sublicensed premises; or
- (ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity sublicensee may provide a hospitality guest an alcoholic product that is not a spirituous liquor free of charge or at a reduced rate, if the sublicensee offers the alcoholic product:

- (i) to all hospitality guests free of charge or at the reduced rate;
- (ii) during a specific time; and
- (iii) on the sublicensee's sublicensed premises.

(b) Before a hospitality amenity sublicensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the sublicensee shall provide the department with advance notice, in accordance with commission rules that permit a sublicensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity sublicensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) A hospitality guest, or a person other than the hospitality amenity sublicensee or staff of the hospitality amenity sublicensee, may not remove an alcoholic product from the hospitality amenity sublicensee's sublicensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product onto or into the hospitality amenity sublicensee's sublicensed premises.

(9) A hospitality amenity sublicensee shall display at each entrance to the sublicensee's sublicensed premises a conspicuous sign that:

- (a) measures at least 8-1/2 inches long and 11 inches wide; and
- (b) clearly states that entry is limited to individuals who are hospitality guests as defined in this chapter.

(10) A hospitality amenity sublicensee may not permit a minor to enter the



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sublicensee's sublicensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the sublicensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity sublicensee shall remain on the sublicensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the sublicensed premises.

(12) A hospitality amenity sublicensee may transfer an alcoholic product to or from another sublicense within the boundaries of the hotel or resort, if:

(a) the hospitality amenity sublicense and each sublicensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in an unopened container.

(13) (a) For purposes of the hospitality amenity sublicense, the hotel or resort licensee shall ensure that a record required under this title is maintained and used for the hospitality amenity sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) An authorized representative of the commission or the department may inspect a record described in this Subsection (13).

(c) A hotel or resort licensee shall allow the department, through a compliance officer of the department, to audit the records for a hospitality amenity sublicense at the times the department considers advisable.

(d) The department shall audit the records for a hospitality amenity sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (13).

Section ~~73~~71. Section **32B-9-201** is amended to read:

### **32B-9-201. Application requirements for event permit.**

(1) To obtain an event permit, a person shall submit to the department:

(a) a written application in a form that the department prescribes;

(b) an event permit fee:

(i) in the amount specified in the relevant part under this chapter for the type of event

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permit for which the person is applying; and

- (ii) that is refundable if an event permit is not issued;
- (c) written consent of the local authority;
- (d) a bond as specified by Section 32B-9-203;
- (e) the times, dates, location, estimated attendance, nature, and purpose of the event;
- (f) a description or floor plan designating:
  - (i) the area in which the person proposes that an alcoholic product be stored;
  - (ii) the site from which the person proposes that an alcoholic product be sold, offered

for sale, or furnished; and

(iii) the area in which the person proposes that an alcoholic product be allowed to be consumed;

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

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

(i) any other information as the commission or department may require.

(2) If a person substantially changes the person's application under Subsection (1) after the person initially submits the application, the person shall pay to the department a fee:

(a) in an amount the department prescribes in accordance with Section 63J-1-504; and

(b) that is nonrefundable, regardless of whether the department issues an event permit.

~~[(2)]~~ (3) An entity applying for a permit need not meet the requirements of Subsections (1)(b), (c), and (d) if the entity is:

- (a) a state agency; or
- (b) a political subdivision of the state.

~~[(3)]~~ (4) The director may not issue an event permit to a person who is disqualified under Section 32B-1-304.

~~[(4)]~~ (5) (a) The proximity requirements of Section 32B-1-202 do not apply to an event permit.

(b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), nothing in this section prevents the director, the Compliance, Licensing, and Enforcement Subcommittee, or the commission from

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considering the proximity of an educational, religious, or recreational facility, or any other relevant factor in deciding whether to issue an event permit.

Section ~~{74}~~72. Section **32B-10-206** is amended to read:

### **32B-10-206. General operational requirements for special use permit.**

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(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 special use permittee;

(ii) individual staff of a special use permittee; or

(iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

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

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee

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in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.

(6) Except as otherwise provided, a special use permittee 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.

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, [~~without prior written approval of the commission~~], except as provided in Chapter 8a, Transfer of Alcohol License Act.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

(a) physical facilities;

(b) conditions of purchase, use, storage, sale, consumption, or manufacture of an

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alcoholic product;

- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

Section ~~{75}~~73. Section **32B-11-208** is amended to read:

### **32B-11-208. General operational requirements for manufacturing license.**

(1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.

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

(2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.

(3) (a) A manufacturing licensee shall make and maintain the records required by the department.

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

(4) A manufacturing licensee may not sell liquor within the state except to:

- (a) the department; or
- (b) a military installation.

(5) A manufacturing license may not be transferred from one location to another location, [~~without prior written approval of the commission~~] except as provided in Chapter 8a, Transfer of Alcohol License Act.

(6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(b) A manufacturing license has no monetary value for any type of disposition.

(7) A manufacturing licensee may not advertise [~~its~~] the manufacturing licensee's product in violation of this title or any other federal or state law, except that nothing in this title

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prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.

(8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:

- (a) for sale; or
- (b) in the course of manufacture for sale in this state.

(9) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a manufacturing licensee relating to:

- (a) physical facilities;
- (b) conditions of storage, sale, or manufacture of an alcoholic product;
- (c) storage and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

Section ~~{76}~~74. Section **32B-11-403** is amended to read:

**32B-11-403. Specific authority and operational requirements for distillery manufacturing license.**

(1) A distillery manufacturing license allows a distillery manufacturing licensee to:

- (a) store, manufacture, transport, import, or export liquor;
- (b) sell liquor to:
  - (i) the department;
  - (ii) an out-of-state customer; and
  - (iii) as provided in Subsection (2);

(c) purchase an alcoholic product for mixing and manufacturing purposes if the department is notified of:

- (i) the purchase; and
- (ii) the date of delivery; [~~and~~]

(d) warehouse on [~~its~~] the distillery manufacturing licensee's licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes[-];

(e) if the distillery manufacturing licensee holds two or more distillery manufacturing licenses under this chapter, transport an alcoholic product from one of the distillery

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manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) storing a bulk container or an alcoholic product that is distilled and packaged in the state, including the transport of an alcoholic product to a package store agency located at any of the distillery manufacturing licensee's licensed premises; and

(f) receive samples of an alcoholic product from a person outside the state for the sole purpose of performing tests and analysis, if the distillery manufacturing licensee:

(i) performs the tests and analysis in accordance with 27 C.F.R. Secs. 19.434(a), (c), (d), (e), and (f), Secs. 19.435 through 19.437, and Sec. 19.616;

(ii) keeps records of the samples received, including:

(A) all data required under 27.C.F.R. Sec. 19.616;

(B) a description of the sample; and

(C) the date the distillery manufacturing licensee receives the sample; and

(iii) upon request, provides the records described in Subsection (1)(f)(ii) to the department.

(2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:

(i) a mechanical or industrial business that requires the use of an alcoholic product; or

(ii) scientific pursuits that require the use of an alcoholic product.

(b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.

(c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.

(d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.

(3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or

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inconsistent with laws of this state.

(4) 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 unsuitable alcoholic product-making equipment or material;

(c) a distillery 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 made available to the commission or department upon request.

(5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on ~~[its]~~ the distillery manufacturing licensee's premises, except that:

(a) a distillery manufacturing licensee may allow ~~[its]~~ the distillery manufacturing licensee's on-duty staff to taste on the licensed premises an alcoholic product that the distillery manufacturing licensee manufactures on ~~[its]~~ the distillery manufacturing licensee's licensed 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 distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises; and

(c) a distillery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

Section ~~{77}~~75. Section **41-6a-531** is enacted to read:

### **41-6a-531. Recording of alcohol source.**

A peace officer who arrests the operator of a vehicle for violating a provision of this title by driving under the influence of alcohol shall:

(1) ask the operator where the operator obtained the alcoholic beverage the operator consumed before driving; and

(2) record information provided under Subsection (1) in the officer's incident report.

Section ~~{78}~~76. Section **63I-2-232** is amended to read:

### **63I-2-232. Repeal dates -- Title 32B.**

(1) Subsection 32B-1-102~~{(7)}~~{(9)} is repealed July 1, 2022.



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- ~~[(2) Section 32B-1-207.1 is repealed November 1, 2019.]~~
- ~~[(3)]~~ (2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.
- ~~[(4)]~~ (3) Section 32B-2-211.1 is repealed November 1, 2020.
- ~~[(5)]~~ (4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.
- ~~[(6)]~~ (5) Section 32B-6-205 is repealed July 1, 2022.
- ~~[(7)]~~ (6) Subsection 32B-6-205.2(14) is repealed July 1, 2022.
- ~~[(8)]~~ (7) Section 32B-6-205.3 is repealed July 1, 2022.
- ~~[(9)]~~ (8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.
- ~~[(10)]~~ (9) Section 32B-6-305 is repealed July 1, 2022.
- ~~[(11)]~~ (10) Subsection 32B-6-305.2(14) is repealed July 1, 2022.
- ~~[(12)]~~ (11) Section 32B-6-305.3 is repealed July 1, 2022.
- ~~[(13)]~~ (12) Section 32B-6-404.1 is repealed July 1, 2022.
- ~~[(14)]~~ (13) Section 32B-6-409 is repealed July 1, 2022.
- ~~[(15)]~~ (14) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.
- ~~[(16)]~~ (15) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.
- ~~[(17)]~~ (16) Section 32B-6-905 is repealed July 1, 2022.
- ~~[(18)]~~ (17) Subsection 32B-6-905.1(15) is repealed July 1, 2022.
- ~~[(19)]~~ (18) Section 32B-6-905.2 is repealed July 1, 2022.
- ~~[(20) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.]~~
- (19) Subsection 32B-8d-104(3) is repealed July 1, 2022.

Section ~~{79}~~77. Repealer.

This bill repeals:

Section **32B-8-203, Specific qualifications for resort license.**

Section **32B-8-204, Commission and department duties before issuing resort license.**

Section **32B-8-402, Specific operational requirements for a sublicense.**

Section **32B-8-503, Enforcement of Nuisance Retail Licensee Act.**

Section **32B-8b-203, Qualifications for hotel license and sublicense.**

Section **32B-8b-204, Commission and department duties before issuing hotel license.**

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

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Section 32B-8b-402, Enforcement of Nuisance Retail Licensee Act.

~~{ Section 80. Effective date.~~

~~\_\_\_\_\_ This bill takes effect on May 12, 2020, except that Section 32B-1-604 takes effect on~~  
~~November 1, 2020.~~

~~}~~