

WINE SUBSCRIPTION PROGRAM

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill establishes a wine subscription program under the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Alcoholic Beverage Control to establish a wine subscription program;
- ▶ establishes parameters and requirements of the wine subscription program;
- ▶ requires a wine subscription business to register with the department in order to ship or transport wine to a customer in the state;
- ▶ establishes requirements for a registered wine subscription business;
- ▶ grants the Alcoholic Beverage Control Commission rulemaking authority; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **32B-1-104**, as last amended by Laws of Utah 2017, Chapter 455
- 29 **32B-2-202**, as last amended by Laws of Utah 2019, Chapter 403
- 30 **32B-2-209**, as last amended by Laws of Utah 2012, Chapter 365
- 31 **32B-2-503**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 32 **32B-2-601**, as last amended by Laws of Utah 2011, Chapter 307
- 33 **32B-2-605**, as last amended by Laws of Utah 2019, Chapter 403
- 34 **32B-4-401**, as last amended by Laws of Utah 2016, Chapter 266
- 35 **32B-4-420**, as last amended by Laws of Utah 2011, Chapters 307 and 334

36 ENACTS:

- 37 **32B-2-701**, Utah Code Annotated 1953
- 38 **32B-2-702**, Utah Code Annotated 1953
- 39 **32B-2-703**, Utah Code Annotated 1953
- 40 **32B-2-704**, Utah Code Annotated 1953
- 41 **32B-2-705**, Utah Code Annotated 1953

42

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

44 Section 1. Section **32B-1-104** is amended to read:

45 **32B-1-104. Exercise of police powers -- Severability.**

46 (1) (a) This title is an exercise of the police powers of the state for the protection of the
47 public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale,
48 furnishing, consumption, manufacture, and distribution of an alcoholic product.

49 (b) This title governs alcoholic product control unless otherwise provided in this title.

50 (2) (a) A licensee, [or] permittee, or registrant has the rights and privileges described in
51 this title that are applicable to the licensee's [or], permittee's, or registrant's license [or], permit,
52 or registration.

53 (b) A licensee [or], permittee, or registrant may engage in an activity related to the
54 storage, sale, offer for sale, furnishing, consumption, manufacture, or distribution of an
55 alcoholic product only if the activity is expressly permitted under this title or a rule authorized
56 under this title and made by the commission.

57 (3) The department and the commission:

58 (a) shall implement and enforce the provisions of this title in accordance with the

59 express language of the provisions of this title and in a manner consistent with the policy
60 described in Section 32B-1-103; and

61 (b) may not waive any provision of this title.

62 (4) If a provision of this title or the application of a provision to a person or
63 circumstance is held invalid, the remainder of this title shall be given effect without the invalid
64 provision or application. The provisions of this title are severable.

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

66 **32B-2-202. Powers and duties of the commission.**

67 (1) The commission shall:

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

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

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

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

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

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

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

80 (i) a package agency;

81 (ii) a full-service restaurant license;

82 (iii) a master full-service restaurant license;

83 (iv) a limited-service restaurant license;

84 (v) a master limited-service restaurant license;

85 (vi) a bar establishment license;

86 (vii) an airport lounge license;

87 (viii) an on-premise banquet license;

88 (ix) a resort license, under which at least four or more sublicenses may be included;

89 (x) an on-premise beer retailer license;

- 90 (xi) a reception center license;
- 91 (xii) a beer-only restaurant license;
- 92 (xiii) a hotel license, under which at least three or more sublicenses may be included;
- 93 (xiv) subject to Subsection (4), a single event permit;
- 94 (xv) subject to Subsection (4), a temporary beer event permit;
- 95 (xvi) a special use permit;
- 96 (xvii) a manufacturing license;
- 97 (xviii) a liquor warehousing license;
- 98 (xix) a beer wholesaling license;
- 99 (xx) a liquor transport license;
- 100 (xxi) an off-premise beer retailer state license;
- 101 (xxii) a master off-premise beer retailer state license; and
- 102 (xxiii) one of the following that holds a certificate of approval:
 - 103 (A) an out-of-state brewer;
 - 104 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - 105 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 106 (f) issue, deny, suspend, or revoke the following conditional licenses:
 - 107 (i) a conditional retail license as defined in Section [32B-5-205](#); and
 - 108 (ii) a conditional off-premise beer retailer state license as defined in Section
 - 109 [32B-7-406](#);
- 110 (g) issue, deny, suspend, revoke, or not renew the registration of a wine subscription
- 111 business as defined in Section [32B-2-701](#);
- 112 [~~(g)~~] (h) prescribe the duties of the department in assisting the commission in issuing a
- 113 package agency, license, permit, or certificate of approval under this title;
- 114 [~~(h)~~] (i) to the extent a fee is not specified in this title, establish a fee allowed under
- 115 this title in accordance with Section [63J-1-504](#);
- 116 [~~(i)~~] (j) fix prices at which liquor is sold that are the same at all state stores, package
- 117 agencies, and retail licensees;
- 118 [~~(j)~~] (k) issue and distribute price lists showing the price to be paid by a purchaser for
- 119 each class, variety, or brand of liquor kept for sale by the department;
- 120 [~~(k)~~] (l) (i) require the director to follow sound management principles; and

- 121 (ii) require periodic reporting from the director to ensure that:
- 122 (A) sound management principles are being followed; and
- 123 (B) policies established by the commission are being observed;
- 124 ~~[(f)]~~ (m) (i) receive, consider, and act in a timely manner upon the reports,
- 125 recommendations, and matters submitted by the director to the commission; and
- 126 (ii) do the things necessary to support the department in properly performing the
- 127 department's duties;
- 128 ~~[(m)]~~ (n) obtain temporarily and for special purposes the services of an expert or
- 129 person engaged in the practice of a profession, or a person who possesses a needed skill if:
- 130 (i) considered expedient; and
- 131 (ii) approved by the governor;
- 132 ~~[(m)]~~ (o) prescribe by rule the conduct, management, and equipment of premises upon
- 133 which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
- 134 ~~[(o)]~~ (p) make rules governing the credit terms of beer sales within the state to retail
- 135 licensees; and
- 136 ~~[(p)]~~ (q) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
- 137 disciplinary action against a person subject to administrative action.
- 138 (2) Consistent with the policy established by the Legislature by statute, the power of
- 139 the commission to do the following is plenary, except as otherwise provided by this title, and
- 140 not subject to review:
- 141 (a) establish a state store;
- 142 (b) issue authority to act as a package agent or operate a package agency; and
- 143 (c) issue or deny a license, permit, or certificate of approval.
- 144 (3) If the commission is authorized or required to make a rule under this title, the
- 145 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
- 146 Rulemaking Act.
- 147 (4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director
- 148 may issue an event permit in accordance with Chapter 9, Event Permit Act.
- 149 Section 3. Section **32B-2-209** is amended to read:
- 150 **32B-2-209. Prohibited interests, relationships, and actions.**
- 151 (1) As used in this section:

152 (a) "Applicable department employee" means a department employee who is:
153 (i) designated as a deputy or assistant director;
154 (ii) a chief administrative officer of a division within the department;
155 (iii) a department compliance officer; or
156 (iv) an employee directly performing purchasing, licensing, or compliance functions of
157 the department.

158 (b) "Immediate family" means an individual's:

159 (i) spouse; or
160 (ii) child who is younger than 18 years of age.

161 (c) "Permit" does not include:

162 (i) an industrial or manufacturing use permit;
163 (ii) a scientific or educational use permit; or
164 (iii) a religious wine use permit.

165 (2) In addition to being subject to Title 67, Chapter 16, Utah Public Officers' and
166 Employees' Ethics Act, an individual who is a commissioner, the director, or an applicable
167 department employee may not:

168 (a) have a pecuniary interest, whether as the holder of stock or other securities other
169 than a mutual fund, in a person who applies for or holds a package agency, license, [or] permit,
170 or registration under this title;

171 (b) otherwise have a conflict of interest with a person who applies for or holds a
172 package agency, license, [or] permit, or registration under this title;

173 (c) have an office, position, or relationship, or be engaged in a business or avocation
174 that interferes or is incompatible with the effective and objective fulfillment of the duties of
175 office or employment;

176 (d) have a direct business relationship with a person subject to administrative action
177 under this title;

178 (e) accept a gift, gratuity, emolument, or employment from:

179 (i) a person who applies for or holds a package agency, license, [or] permit, or
180 registration under this title; or

181 (ii) an officer, agent, or employee of a person who applies for or holds a package
182 agency, license, [or] permit, or registration under this title, except that a commissioner, the

183 director, or an applicable department employee may accept a gift from an officer, agent, or
184 employee if the gift is equal to or less than \$50; or

185 (f) solicit, suggest, request, or recommend, directly or indirectly, the appointment of
186 any person to any office or employment with a person who applies for or holds a package
187 agency, license, [or] permit, or registration under this title.

188 (3) An immediate family member of a commissioner, the director, or an applicable
189 department employee may not:

190 (a) have a pecuniary interest, whether as the holder of stock or other securities other
191 than a mutual fund, in a person who applies for or holds a package agency, license, [or] permit,
192 or registration under this title;

193 (b) otherwise have a conflict of interest with a person who applies for or holds a
194 package agency, license, [or] permit, or registration under this title;

195 (c) have an office, position, or relationship, or be engaged in a business or avocation
196 that interferes or is incompatible with the effective and objective fulfillment of the duties of
197 office or employment of the commissioner, director, or applicable department employee for
198 whom the person is immediate family;

199 (d) accept a gift, gratuity, emolument, or employment from:

200 (i) a person who applies for or holds a package agency, license, [or] permit, or
201 registration under this title; or

202 (ii) an officer, agent, or employee of a person who applies for or holds a package
203 agency, license, [or] permit, or registration under this title, except that an immediate family
204 member may accept a gift from an officer, agent, or employee if the gift is equal to or less than
205 \$50; or

206 (e) solicit, suggest, request, or recommend, directly or indirectly, the appointment of
207 any person to any office or employment with a person who applies for or holds a package
208 agency, license, [or] permit, or registration under this title.

209 (4) An officer, agent, attorney, or employee of a person who applies for or holds a
210 package agency, license, [or] permit, or registration under this title may not directly or
211 indirectly solicit, request, or recommend to the governor, any state senator, the commission, or
212 the department the appointment of any person:

213 (a) as a commissioner;

214 (b) as director of the department; or

215 (c) to a department staff position.

216 (5) (a) A commissioner shall disclose during a meeting of the commission a potential
217 violation of this section, including the existence and nature of a professional, financial,
218 business, or personal interest with a person who holds, or an applicant for, a package agency,
219 license, ~~or~~ permit, or registration issued under this title that may result in a violation of this
220 section.

221 (b) After a commissioner makes a disclosure under Subsection (5)(a):

222 (i) the commission may, by motion, determine whether there is a potential violation of
223 this section;

224 (ii) if the commission determines that there is a potential violation of this section:

225 (A) the commission shall notify the governor; and

226 (B) the commissioner may not vote on any matter that would result in the potential
227 violation of this section; and

228 (iii) if the commission determines that there is not a potential violation of this section,
229 a commissioner may elect whether to vote on the issue that gives rise to the disclosure under
230 Subsection (5)(a).

231 (c) The commission shall record any declaration of a potential violation of this section
232 in the minutes of the meeting.

233 Section 4. Section **32B-2-503** is amended to read:

234 **32B-2-503. Operational requirements for a state store.**

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

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

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

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

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

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

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

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

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

251 (2) [A] Except as provided in Subsection (9), a state store may not sell, offer for sale,
252 or furnish liquor except at a price fixed by the commission.

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

254 (a) a minor;

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

256 (c) a known interdicted person; or

257 (d) a known habitual drunkard.

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

259 (i) consume an alcoholic product on the premises of a state store; or

260 (ii) allow any person to consume an alcoholic product on the premises of a state store.

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

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

264 (i) on Sunday; or

265 (ii) on a state or federal legal holiday.

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

269 (6) (a) A minor may not be admitted into, or be on the premises of, a state store unless
270 accompanied by a person who is:

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

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

273 (b) A state store employee that has reason to believe that a person who is on the
274 premises of a state store is under the age of 21 and is not accompanied by a person described in
275 Subsection (6)(a) may:

276 (i) ask the suspected minor for proof of age;
277 (ii) ask the person who accompanies the suspected minor for proof of age; and
278 (iii) ask the suspected minor or the person who accompanies the suspected minor for
279 proof of parental, guardianship, or spousal relationship.

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

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

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

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

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

292 (9) A state store may not charge any amount other than the handling fee described in
293 Subsection 32B-2-704(1) for wine shipped or transported to the state store, directly or
294 indirectly, from a registered wine subscription business as defined in Section 32B-2-701.

295 Section 5. Section **32B-2-601** is amended to read:

296 **32B-2-601. Commission's power to issue package agency.**

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

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

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

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

307 considers proper.

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

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

312 (A) begin on May 1; and

313 (B) end on October 31.

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

317 (A) begin on November 1; and

318 (B) end on April 30.

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

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

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

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

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

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

329 (I) within the same hotel; and

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

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

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

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

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

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

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

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

347 **32B-2-605. Operational requirements for package agency.**

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

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

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

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

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

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

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

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

365 (i) the package agent; or

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

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

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

- 369 (ii) responsible for the operation of the package agency.
- 370 (c) The conduct of the designee is attributable to the package agent.
- 371 (d) A package agent shall submit the name of the person operating the package agency
372 to the department for the department's approval.
- 373 (e) A package agent shall state the name and title of a designee on the application for a
374 package agency.
- 375 (f) A package agent shall:
- 376 (i) inform the department of a proposed change in the individual designated to operate
377 a package agency; and
- 378 (ii) receive prior approval from the department before implementing the change
379 described in this Subsection (2)(f).
- 380 (g) Failure to comply with the requirements of this Subsection (2) may result in the
381 immediate termination of a package agency agreement.
- 382 (3) (a) A package agent shall display in a prominent place in the package agency the
383 record issued by the commission that designates the package agency.
- 384 (b) A package agent that displays or stores liquor at a location visible to the public
385 shall display in a prominent place in the package agency a sign in large letters that consists of
386 text in the following order:
- 387 (i) a header that reads: "WARNING";
- 388 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
389 can cause birth defects and permanent brain damage for the child.";
- 390 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
391 [insert most current toll-free number] with questions or for more information.";
- 392 (iv) a header that reads: "WARNING"; and
- 393 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
394 serious crime that is prosecuted aggressively in Utah."
- 395 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
396 font style than the text described in Subsections (3)(b)(iv) and (v).
- 397 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
398 same font size.
- 399 (d) The Department of Health shall work with the commission and department to

400 facilitate consistency in the format of a sign required under this section.

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

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

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

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

411 (7) [~~A~~] Subject to Subsection (20), a package agency may not sell, offer for sale, or
412 furnish liquor except at a price fixed by the commission.

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

414 (a) a minor;

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

416 (c) a known interdicted person; or

417 (d) a known habitual drunkard.

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

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

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

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

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

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

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

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

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

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

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

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

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

438 (i) the dates of closure or cessation of operation;

439 (ii) the reason for the closure or cessation of operation; and

440 (iii) the date on which the package agency will reopen or resume operation.

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

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

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

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

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

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

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

455 (A) on Sunday; or

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

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

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

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

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

466 (A) a full-service restaurant license;

467 (B) a limited-service restaurant license;

468 (C) a beer-only restaurant license;

469 (D) a dining club license; or

470 (E) a bar license;

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

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

474 (v) the manufacturing facility:

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

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

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

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

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

484 (A) a resort licensee; or

485 (B) a hotel licensee.

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

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

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

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

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

- 496 (i) ask the suspected minor for proof of age;
497 (ii) ask the person who accompanies the suspected minor for proof of age; and
498 (iii) ask the suspected minor or the person who accompanies the suspected minor for
499 proof of parental, guardianship, or spousal relationship.

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

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

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

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

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

- 512 (i) if the package agency is the type of package agency that authorizes the package
513 agency to sell, offer for sale, or furnish the liquor as part of room service;
514 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and
515 (iii) subject to:

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

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

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

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

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

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

- 528 (a) physical facilities;
- 529 (b) conditions of operation;
- 530 (c) hours of operation;
- 531 (d) inventory levels;
- 532 (e) payment schedules;
- 533 (f) methods of payment;
- 534 (g) premises security; and
- 535 (h) any other matter considered appropriate by the commission.

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

537 (20) A package agency may not charge any amount other than the handling fee
538 described in Subsection 32B-2-704(1) for wine shipped or transported to the package agency,
539 directly or indirectly, from a registered wine subscription business as defined in Section
540 32B-2-701.

541 Section 7. Section 32B-2-701 is enacted to read:

542 **32B-2-701. Definitions.**

543 As used in this part:

544 (1) "Registered wine subscription business" means a wine subscription business that
545 registers with the department in accordance with Section 32B-2-702.

546 (2) "Wine subscription business" means a person that sells or offers for sale a wine
547 subscription.

548 (3) "Wine subscription" means an arrangement in which a customer pays a person a
549 recurring price at regular intervals for a product that involves the shipment or transportation of
550 wine.

551 Section 8. Section 32B-2-702 is enacted to read:

552 **32B-2-702. Wine subscription registration -- Duties.**

553 (1) Before a person as a wine subscription business may sell or offer for sale a wine
554 subscription that involves shipping or transporting wine to a customer in the state, the person

555 shall first register with the department in accordance with this section.

556 (2) To register as a wine subscription business, a person shall submit to the
557 department:

558 (a) a written application in a form the department prescribes;

559 (b) a nonrefundable application fee of \$300;

560 (c) if the person applying is an entity, verification that an individual who signs the
561 application is authorized to sign on behalf of the entity; and

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

563 (3) (a) Registration under this section expires August 31 of each year.

564 (b) To renew a registration under this section, a registered wine subscription business
565 shall submit to the department no later than July 31:

566 (i) a renewal application in a form the department prescribes;

567 (ii) a nonrefundable renewal fee of \$100; and

568 (iii) any other information the commission or department requires.

569 (4) A registered wine subscription business shall:

570 (a) only sell or offer for sale a wine subscription to an individual who is 21 years of age
571 or older;

572 (b) ensure that all wine the wine subscription business ships or transports to a customer
573 in the state as part of a wine subscription:

574 (i) is delivered to a state store or package agency; and

575 (ii) is not otherwise available for sale by the department; and

576 (c) cooperate with the department to ensure that after the registered wine subscription
577 business ships or transports wine in accordance with this Subsection (4), the state store or
578 package agency can furnish the wine to the intended customer.

579 Section 9. Section **32B-2-703** is enacted to read:

580 **32B-2-703. Commission and department duties before approving a wine**
581 **subscription registration.**

582 Before approving a registration under this part, the commission shall determine that the
583 person:

584 (1) filed a complete application; and

585 (2) is in compliance with this title.

586 Section 10. Section **32B-2-704** is enacted to read:

587 **32B-2-704. Department handling of wine subscription products.**

588 (1) The department shall establish a program that:

589 (a) permits a registered wine subscription business to ship or transport wine:

590 (i) as part of a wine subscription; and

591 (ii) to a state store or package agency, as the customer of the wine subscription
592 determines;

593 (b) notifies the customer of a wine subscription when wine delivered to a state store or
594 package agency as described in Subsection (1)(a) is ready for the customer to collect;

595 (c) ensures the state store or package agency verifies that the individual who collects
596 the wine is the customer who purchased the wine through a wine subscription; and

597 (d) upon collection of the wine, requires the state store or package agency to charge the
598 customer a handling fee that the department establishes in accordance with Title [63J-1-504](#).

599 (2) The department may not charge or collect a markup described in Section [32B-2-304](#)
600 on wine shipped or transported to a state store or package agency from a registered wine
601 subscription business.

602 Section 11. Section **32B-2-705** is enacted to read:

603 **32B-2-705. Rulemaking.**

604 The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
605 Administrative Rulemaking Act, to administer this part and adjust to an evolving market.

606 Section 12. Section **32B-4-401** is amended to read:

607 **32B-4-401. Unlawful sale or furnishing.**

608 (1) It is unlawful for a retail licensee, a permittee, a registrant, or staff of a retail
609 licensee [~~or~~], permittee, or registrant to keep for sale, or to directly or indirectly, sell, offer for
610 sale, or furnish to another, an alcoholic product, except as otherwise provided by this title.

611 (2) It is unlawful for a person in the business of selling liquor, a manufacturer, a
612 supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to
613 sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state
614 location directly or indirectly into this state except to the extent authorized by this title to:

615 (a) the department;

616 (b) a military installation;

617 (c) a holder of a special use permit, to the extent authorized in the special use permit;

618 or

619 (d) a liquor warehouser licensee licensed to distribute and transport liquor to:

620 (i) the department; or

621 (ii) an out-of-state wholesaler or retailer.

622 (3) (a) It is unlawful for a person in the business of selling beer, a manufacturer, a
623 supplier, an importer of beer, or staff of the person, manufacturer, or importer to sell, ship,
624 transport, or cause to be sold, shipped, or transported beer from an out-of-state location directly
625 or indirectly into this state except to the extent authorized by this title to:

626 (i) a beer wholesaler licensee;

627 (ii) a military installation; or

628 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

629 (b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of
630 approval from selling, shipping, or transporting beer to the extent authorized by Subsection
631 [32B-11-503\(5\)](#) directly to:

632 (i) a beer retailer; or

633 (ii) an event permittee.

634 (4) (a) It is unlawful for a manufacturer, supplier, or importer of liquor in this state, or
635 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
636 shipped, or transported liquor directly or indirectly to a person in this state except to the extent
637 authorized by this title to:

638 (i) the department;

639 (ii) a military installation;

640 (iii) a holder of a special use permit, to the extent authorized in the special use permit;

641 or

642 (iv) a liquor warehouser licensee who is licensed to distribute and transport liquor to:

643 (A) the department; or

644 (B) an out-of-state wholesaler or retailer.

645 (b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this
646 state from selling wine to a person on its winery premises:

647 (i) to the extent authorized by Subsection [32B-11-303\(4\)](#); or

648 (ii) under a package agency issued by the commission on the winery premises.

649 (c) Subsection (4)(a) does not preclude a distillery manufacturing licensee located in
650 this state from selling liquor on its distillery premises:

651 (i) to the extent authorized in Subsection 32B-11-403(5); or

652 (ii) under a package agency issued by the commission on the distillery premises.

653 (d) Subsection (4)(a) does not preclude a brewery manufacturing licensee located in
654 this state from selling heavy beer or flavored malt beverages on its brewery premises:

655 (i) to the extent authorized under Subsection 32B-11-503(4); or

656 (ii) under a package agency issued by the commission on its brewery premises.

657 (5) (a) It is unlawful for a manufacturer, supplier, or importer of beer in this state, or
658 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
659 shipped, or transported beer directly or indirectly to a person in this state except to the extent
660 authorized by this title to:

661 (i) a beer wholesaler licensee;

662 (ii) a military installation; or

663 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

664 (b) Subsection (5)(a) does not preclude:

665 (i) a small brewer who is a brewery manufacturing licensee located in this state from
666 selling, shipping, and transporting beer to the extent authorized by Subsection 32B-11-503(5)
667 directly to one of the following in this state:

668 (A) a beer retailer; or

669 (B) an event permittee; or

670 (ii) a brewery manufacturing licensee from selling beer to a person on its
671 manufacturing premises under Subsection 32B-11-503(4)(c).

672 (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to
673 sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an
674 out-of-state location directly or indirectly into this state, except as otherwise provided by this
675 title.

676 (7) It is unlawful for a person in this state other than a person described in Subsection
677 (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic
678 product directly or indirectly to another person in this state, except as otherwise provided by

679 this title.

680 (8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise
681 provided by this title.

682 (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

683 (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

684 Section 13. Section **32B-4-420** is amended to read:

685 **32B-4-420. Unlawful adulteration.**

686 (1) For purposes of this section, "tamper" means to do one or more of the following to
687 the contents of a container:

688 (a) fortify;

689 (b) adulterate;

690 (c) contaminate;

691 (d) dilute;

692 (e) change its character or purity; or

693 (f) otherwise change.

694 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
695 product sold or supplied by the person as a beverage any of the following:

696 (a) a drug;

697 (b) methylic alcohol;

698 (c) a crude, unrectified, or impure form of ethylic alcohol; or

699 (d) another deleterious substance.

700 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

701 (i) a package agent;

702 (ii) a retail licensee;

703 (iii) a permittee;

704 (iv) a beer wholesaler licensee;

705 (v) a liquor warehouser licensee;

706 (vi) a supplier; [~~or~~]

707 (vii) an importer[-]; or

708 (viii) a registrant.

709 (b) A person listed in Subsection (3)(a) may not:

- 710 (i) tamper with the contents of a container of alcoholic product as originally marketed
711 by a manufacturer;
- 712 (ii) refill or partly refill with any substance the contents of an original container of
713 alcoholic product as originally marketed by a manufacturer;
- 714 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or
715 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a
716 purchaser without first advising the purchaser of the difference.