

1 **ALCOHOL LICENSE AND PERMIT AMENDMENTS**

2 2020 SIXTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Timothy D. Hawkes**

5 Senate Sponsor: Jerry W. Stevenson

6 <cospons>

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Alcohol Beverage Control Act regarding certain
11 licenses and permits.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ delays the expiration date of certain retail licenses in the year 2020;
- 15 ▶ adjusts percentage of annual gross receipts from the sale of alcoholic products that a
16 reception center licensee may maintain and what is included in that percentage;
- 17 ▶ defines "hospitality room" in relation to a public service permittee;
- 18 ▶ allows a public service permittee operating at an international airport to change
19 location under certain conditions;
- 20 ▶ establishes commission power and duties in approving a public service permittee's
21 change in location request;
- 22 ▶ provides a repeal date for provisions regarding delayed retail license renewals; and
- 23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **32B-5-202**, as last amended by Laws of Utah 2020, Chapter 219

31 **32B-6-803**, as last amended by Laws of Utah 2020, Chapter 219

32 **32B-10-206**, as last amended by Laws of Utah 2020, Chapters 219 and 354

33 **32B-10-302**, as enacted by Laws of Utah 2010, Chapter 276

34 **32B-10-303**, as last amended by Laws of Utah 2011, Chapter 334

35 **32B-10-304**, as last amended by Laws of Utah 2011, Chapter 334

36 **63I-2-232**, as last amended by Laws of Utah 2020, Chapter 219

37 ENACTS:

38 **32B-10-305**, Utah Code Annotated 1953



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

41 Section 1. Section **32B-5-202** is amended to read:

42 **32B-5-202. Renewal requirements.**

43 (1) A retail license expires each year on the day specified in the relevant chapter or part
44 for that type of retail license.

45 (2) (a) To renew a person's retail license, a retail licensee shall, by no later than the day
46 specified in the relevant chapter or part for the type of retail license that the person seeks to
47 renew, submit:

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

49 (ii) a renewal fee in the amount specified in the relevant chapter or part for the type of
50 retail license that the person seeks to renew.

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

54 (i) made substantial changes to the retail licensee's responsible alcohol service plan; or

55 (ii) violated a provision of this chapter.

56 (c) The department may audit a retail licensee's responsible alcohol service plan.

57 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
58 retail license effective on the day on which the existing retail license expires.

59 (4) (a) In the year 2020, the following retail licenses expire on December 22:

60 (i) a full-service restaurant license;

61 (ii) a limited-service restaurant license;

62 (iii) an airport lounge license;

63 (iv) an on-premise banquet license;

64 (v) a reception center license;

65 (vi) a resort license; and

66 (vii) a hotel license.

67 (b) To renew a license described in Subsection (4)(a) in the year 2020, a person shall:

68 (i) submit to the department on or before December 21, a completed renewal

69 application in a form the department prescribes; and

70 (ii) ensure that the department receives on or before December 21, a renewal fee in the

71 amount specified in the relevant chapter or part for the type of retail license that the person

72 seeks to renew.

73 (c) The provisions of this Subsection (4) supersede any conflicting provision of law in

74 this title.

75 Section 2. Section **32B-6-803** is amended to read:

76 **32B-6-803. Commission's power to issue reception center license.**

77 (1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on the

78 person's premises as a reception center, the person shall first obtain a reception center license

79 from the commission in accordance with this part.

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

81 licensed premises at places and in numbers the commission considers proper for the storage,

82 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated

83 as a reception center.

84 (3) Subject to Section **32B-1-201**, the commission may not issue a total number of

85 reception center licenses that at any time exceeds the number determined by dividing the
86 population of the state by 251,693.

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

89 (5) (a) To be licensed as a reception center, a person [~~shall maintain at least 50%~~] may
90 not maintain more than 30% of the person's total annual gross receipts from the sale of [~~food,~~
91 ~~which does not include:~~] alcoholic products.

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

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

94 (b) For purposes of Subsection (5)(a):

95 (i) an alcoholic product includes:

96 (A) mix for an alcoholic product; and

97 (B) a charge in connection with the furnishing of an alcoholic product; and

98 (ii) gross receipts do not include any charge for renting a room or facility.

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

101 Section 3. Section **32B-10-206** is amended to read:

102 **32B-10-206. General operational requirements for special use permit.**

103 (1) (a) A special use permittee and staff of the special use permittee shall comply with
104 this title and rules of the commission, including the relevant part of the chapter that applies to
105 the type of special use permit held by the special use permittee.

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

108 (i) a special use permittee;

109 (ii) individual staff of a special use permittee; or

110 (iii) a special use permittee and staff of the special use permittee.

111 (c) The commission may suspend or revoke a special use permit with or without cause.

112 (2) (a) If there is a conflict between this part and the relevant part under this chapter for

113 the specific type of special use permit, the relevant part under this chapter governs.

114 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a
115 special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or
116 manufacture an alcoholic product authorized for the special use permit that is held by the
117 special use permittee.

118 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
119 special use permit held by a special use permittee refers to "special use permittee," a person
120 involved in the purchase, use, storage, sale, offering for sale, allowing consumption, or
121 manufacture of an alcoholic product for which the special use permit is issued is subject to the
122 same requirement or prohibition.

123 (3) (a) A special use permittee shall make and maintain a record, as required by
124 commission rule, of any alcoholic product purchased, used, sold, or manufactured.

125 (b) Section [32B-1-205](#) applies to a record required to be made or maintained in
126 accordance with this Subsection (3).

127 (4) (a) Except as otherwise provided in this title, a special use permittee may not
128 purchase liquor except from a state store or package agency.

129 (b) A special use permittee may transport liquor purchased by the special use permittee
130 in accordance with this Subsection (4) from the place of purchase to the special use permittee's
131 premises.

132 (c) A special use permittee shall purchase liquor at prices set by the commission.

133 (d) When authorized by a special use permit, a special use permittee may purchase and
134 receive an alcoholic product directly from a manufacturer for a purpose that is industrial,
135 educational, scientific, or manufacturing.

136 (e) A health care facility may purchase and receive an alcoholic product directly from a
137 manufacturer for use at the health care facility.

138 (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish,
139 manufacture, or allow consumption of an alcoholic product in a location other than as
140 designated in a special use permittee's:

- 141 (a) application[-]; or
142 (b) change of location request, as described in Section [32B-10-305](#), if:
143 (i) the special use permittee is a public service permittee; and
144 (ii) the commission approved the special use permittee's change in location request.
145 (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or
146 furnish an alcoholic product to:
147 (a) a minor;
148 (b) a person actually, apparently, or obviously intoxicated;
149 (c) a known interdicted person; or
150 (d) a known habitual drunkard.
151 (7) A special use permittee may not employ a minor to handle an alcoholic product.
152 (8) (a) The location specified in a special use permit may not be transferred from one
153 location to another location, except as provided in Chapter 8a, Transfer of Alcohol License
154 Act.
155 (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or
156 attempt in any way to dispose of the permit to another person whether for monetary gain or not,
157 except as provided in Chapter 8a, Transfer of Alcohol License Act.
158 (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale,
159 furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized
160 by the special use permit.
161 (10) The commission may prescribe by policy or rule consistent with this title, the
162 general operational requirements of a special use permittee relating to:
163 (a) physical facilities;
164 (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an
165 alcoholic product;
166 (c) purchase, storage, and sales quantity limitations; and
167 (d) other matters considered appropriate by the commission.
168 Section 4. Section **32B-10-302** is amended to read:

169 **32B-10-302. Definitions.**170 ~~[Reserved]~~ As used in this part, "hospitality room" means a room or facility:171 (1) that a public service permittee operates; and172 (2) in which an alcoholic product is sold, offered for sale, furnished, or consumed.173 Section 5. Section **32B-10-303** is amended to read:174 **32B-10-303. Specific application and renewal requirements for public service**
175 **permit.**

176 (1) To obtain a public service permit, in addition to complying with Section

177 **32B-10-202**, a person shall submit to the department:178 (a) a statement of the total of regularly numbered flights, trains, buses, boats, or other
179 types of public conveyance for which the person plans to use the special use permit;180 (b) a floor plan of any room or facility in which the person plans to establish a
181 hospitality room ~~[where the sale, offer for sale, or furnishing of an alcoholic product is made to~~
182 ~~a patron then in transit, using the host company's airline, railroad, bus, boat, or other public~~
183 ~~conveyance]; and~~184 (c) evidence of proximity of a proposed hospitality room to the arrival and departure
185 area used by a person traveling on the ~~[host company's]~~ person's airline, railroad, bus, boat, or
186 other public conveyance.

187 (2) (a) The nonrefundable application fee for a public service permit is \$75.

188 (b) The initial permit fee for a public service permit is \$250.

189 (c) The bond amount required for a public service permittee is the penal sum of \$1,000.

190 (3) (a) To renew a public service permit, a person shall comply with Section

191 **32B-10-203**.192 (b) The renewal fee for a public service permit is \$30 for each regularly numbered
193 passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public
194 conveyance upon which an alcoholic product is sold, offered for sale, or furnished.195 Section 6. Section **32B-10-304** is amended to read:196 **32B-10-304. Specific operational requirements for a public service permit.**

197 (1) (a) In addition to complying with Section 32B-10-206, a public service permittee
198 and staff of the public service permittee shall comply with this section.

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

- 201 (i) a public service permittee;
- 202 (ii) individual staff of a public service permittee; or
- 203 (iii) both a public service permittee and staff of the public service permittee.

204 (2) (a) A public service permittee whose public conveyances operate on an interstate
205 basis may do the following:

- 206 (i) purchase an alcoholic product outside of the state;
- 207 (ii) bring an alcoholic product purchased outside of the state into the state; and
- 208 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state
209 to a passenger traveling on the public service permittee's public conveyance for consumption
210 while en route on the public conveyance.

211 (b) A public service permittee whose public conveyance operates solely within the
212 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's
213 public conveyance for consumption while en route on the public conveyance, shall purchase:

- 214 (i) liquor from a state store or package agency; and
- 215 (ii) beer from a beer wholesaler licensee.

216 (3) (a) A public service permittee may establish a hospitality room [~~in which an~~
217 ~~alcoholic product may be stored, sold, offered for sale, furnished, and consumed~~], if:

- 218 (i) the room is located within a depot, terminal, or similar facility adjacent to and
219 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;
- 220 (ii) the room is completely enclosed and the interior is not visible to the public;
- 221 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a
222 person:

223 (A) then in transit using the [~~host company's~~] public service permittee's airline,
224 railroad, bus line, or other public conveyance; and

225 (B) holding a valid boarding pass or similar travel document issued by the [host
226 company] public service permittee; and

227 (iv) (A) liquor is purchased from:

228 (I) a state store; or

229 (II) a package agency; and

230 (B) beer is purchased from a beer wholesaler licensee.

231 (b) (i) A public service permittee operating a hospitality room shall display in a
232 prominent place in the hospitality room, a sign in large letters that consists of text in the
233 following order:

234 (A) a header that reads: "WARNING";

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

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

239 (D) a header that reads: "WARNING"; and

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

242 (ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a
243 different font style than the text described in Subsections (3)(b)(i)(D) and (E).

244 (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the
245 same font size.

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

248 (c) A hospitality room shall be operated in accordance with this chapter and rules
249 adopted by the commission.

250 Section 7. Section **32B-10-305** is enacted to read:

251 **32B-10-305. Change in location request for a public service permit.**

252 (1) A public service permittee operating at an international airport may request a

253 change in location within the international airport, if the international airport requires the
254 public service permittee to relocate to another location within the international airport.

255 (2) To request a change in location, a public service permittee described in Subsection
256 (1) shall, in a manner prescribed by the department, submit to the department:

257 (a) a statement of the total number of regularly numbered flights for which the public
258 service permittee plans to use the special use permit;

259 (b) a floor plan of any room or facility in which the public service permittee plans to
260 establish a hospitality room;

261 (c) evidence of the proximity of each proposed hospitality room to the arrival and
262 departure area used by a person traveling the public service permittee's airline; and

263 (d) any other information the department requires.

264 (3) (a) Before approving a public service permittee's request to change location at an
265 international airport, the commission shall:

266 (i) determine that the public service permittee filed a complete change in location
267 request, as described in Subsection (2);

268 (ii) determine that the public service permittee is in compliance with this chapter and
269 part;

270 (iii) consider the physical characteristics of the premises where an alcoholic product is
271 proposed to be used, mixed, stored, sold, offered for sale, or furnished, including:

272 (A) the conditions of the premises;

273 (B) public visibility; and

274 (C) safety considerations; and

275 (iv) consider any other factor the commission considers necessary.

276 (b) The commission may delegate to the department:

277 (i) the authority to approve a change in location for a public service permittee at an
278 international airport; and

279 (ii) the duties described in this Subsection (3).

280 (4) Upon commission approval of the public service permittee's request to change

281 location, the public service permittee shall move to the newly approved location within the
282 international airport.

283 Section 8. Section **63I-2-232** is amended to read:

284 **63I-2-232. Repeal dates -- Title 32B.**

285 (1) Subsection **32B-1-102(9)** is repealed July 1, 2022.

286 (2) Subsection **32B-1-407(3)(d)** is repealed July 1, 2022.

287 (3) Section **32B-2-211.1** is repealed November 1, 2020.

288 (4) Subsection **32B-5-202(4)**, which addresses license renewal during 2020, is repealed
289 January 1, 2021.

290 [~~(4)~~] (5) Subsections **32B-6-202(3)** and (4) are repealed July 1, 2022.

291 [~~(5)~~] (6) Section **32B-6-205** is repealed July 1, 2022.

292 [~~(6)~~] (7) Subsection **32B-6-205.2(16)** is repealed July 1, 2022.

293 [~~(7)~~] (8) Section **32B-6-205.3** is repealed July 1, 2022.

294 [~~(8)~~] (9) Subsections **32B-6-302(3)** and (4) are repealed July 1, 2022.

295 [~~(9)~~] (10) Section **32B-6-305** is repealed July 1, 2022.

296 [~~(10)~~] (11) Subsection **32B-6-305.2(15)** is repealed July 1, 2022.

297 [~~(11)~~] (12) Section **32B-6-305.3** is repealed July 1, 2022.

298 [~~(12)~~] (13) Section **32B-6-404.1** is repealed July 1, 2022.

299 [~~(13)~~] (14) Section **32B-6-409** is repealed July 1, 2022.

300 [~~(14)~~] (15) Subsection **32B-6-703(2)(e)(iv)** is repealed July 1, 2022.

301 [~~(15)~~] (16) Subsections **32B-6-902(1)(c)**, (1)(d), and (2) are repealed July 1, 2022.

302 [~~(16)~~] (17) Section **32B-6-905** is repealed July 1, 2022.

303 [~~(17)~~] (18) Subsection **32B-6-905.1(15)** is repealed July 1, 2022.

304 [~~(18)~~] (19) Section **32B-6-905.2** is repealed July 1, 2022.

305 [~~(19)~~] (20) Subsection **32B-8d-104(3)** is repealed July 1, 2022.

306 Section 9. **Effective date.**

307 If approved by two-thirds of all the members elected to each house, this bill takes effect
308 upon approval by the governor, or the day following the constitutional time limit of Utah

309 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
310 the date of veto override.