

ALCOHOLIC BEVERAGE CONTROL AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends the definitions of "hotel," "room service," and "small brewer";
- ▶ amends and enacts provisions related to proximity to a community location;
- ▶ amends the calculation of ratio of gross receipts of food to alcoholic product for spirituous liquor;
- ▶ amends the qualifications for a special use permittee;
- ▶ amends the markup for heavy beer from certain small brewers;
- ▶ amends the percentage of the total gross revenue from sales of liquor deposited in the Underage Drinking Prevention Media and Education Campaign Restricted Account;
- ▶ requires a package agent who has a consignment liquor inventory owned by the state to post a cash or surety bond;
- ▶ amends the operational requirements of a package agency;
- ▶ amends provisions related to the unlawful sale, offer for sale, or furnishing to a minor or to an intoxicated person;
- ▶ enacts provisions related late applications for retail license renewal;
- ▶ amends provisions related to a conditional retail license;



- 28 ▶ amends provisions related to bringing an alcoholic product on or carrying an
- 29 alcoholic product from licensed premises;
- 30 ▶ requires a retail licensee to notify the department within 60 days of certain changes;
- 31 ▶ amends operational requirements for an on-premise banquet license;
- 32 ▶ amends provisions related to an on-premise beer retailer license;
- 33 ▶ requires the commission to approve an additional location for a hospitality amenity
- 34 licensee;
- 35 ▶ amends operational requirements for an off-premise beer retailer;
- 36 ▶ amends provisions of the Transfer of Alcohol License Act regarding:
- 37 • the definitions "transferor" and "transferee";
- 38 • the transferability of an alcohol license;
- 39 • the effect of transfer of ownership of a business entity;
- 40 • operational requirements for a transferee;
- 41 • application and approval process; and
- 42 • transfer fees;
- 43 ▶ repeals from the Transfer of Alcohol License Act, Part 4, Protection of Creditors;
- 44 ▶ amends the general operational requirements of a sublicense regarding bringing an
- 45 alcoholic product onto and carrying an alcoholic product from the licensed
- 46 premises;
- 47 ▶ allows certain actions without a manufacturing license;
- 48 ▶ enacts provisions related to a change of location for a warehousing facility;
- 49 ▶ exempts the director's emergency action suspending operations of a package agency,
- 50 licensee, or permittee under certain circumstances from Title 63G, Chapter 4,
- 51 Administrative Procedures Act;
- 52 ▶ amends provisions related to the investigation of sales of alcohol, tobacco products,
- 53 electronic cigarette products, and nicotine products to underage individuals; and
- 54 ▶ makes technical and conforming changes.

55 Money Appropriated in this Bill:

56 None

57 Other Special Clauses:

58 None

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **32B-1-102**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 3

62 and 4

63 **32B-1-202**, as last amended by Laws of Utah 2020, Chapter 219

64 **32B-1-207**, as last amended by Laws of Utah 2017, Chapter 455

65 **32B-1-304**, as last amended by Laws of Utah 2020, Chapter 219

66 **32B-2-304**, as last amended by Laws of Utah 2020, Chapters 21 and 178

67 **32B-2-306**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

68 **32B-2-604**, as last amended by Laws of Utah 2011, Chapter 307

69 **32B-2-605**, as last amended by Laws of Utah 2020, Chapter 219

70 **32B-4-403**, as enacted by Laws of Utah 2010, Chapter 276

71 **32B-4-404**, as enacted by Laws of Utah 2010, Chapter 276

72 **32B-5-202**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6

73 **32B-5-205**, as last amended by Laws of Utah 2013, Chapter 349

74 **32B-5-307**, as last amended by Laws of Utah 2020, Chapter 219

75 **32B-5-310**, as last amended by Laws of Utah 2019, Chapter 403

76 **32B-6-605**, as last amended by Laws of Utah 2020, Chapter 219

77 **32B-6-703**, as last amended by Laws of Utah 2019, Chapter 403

78 **32B-6-1004**, as enacted by Laws of Utah 2020, Chapter 219

79 **32B-7-202**, as last amended by Laws of Utah 2019, Chapter 403

80 **32B-8-501**, as last amended by Laws of Utah 2020, Chapter 219

81 **32B-8a-102**, as last amended by Laws of Utah 2020, Chapter 219

82 **32B-8a-201**, as last amended by Laws of Utah 2020, Chapter 219

83 **32B-8a-202**, as last amended by Laws of Utah 2020, Chapter 219

84 **32B-8a-203**, as last amended by Laws of Utah 2020, Chapter 219

85 **32B-8a-302**, as last amended by Laws of Utah 2020, Chapter 219

86 **32B-8a-303**, as last amended by Laws of Utah 2020, Chapter 219

87 **32B-8a-501**, as last amended by Laws of Utah 2020, Chapter 219

88 **32B-8d-104**, as enacted by Laws of Utah 2020, Chapter 219

89 **32B-11-202**, as enacted by Laws of Utah 2010, Chapter 276

- 90 **32B-12-205**, as enacted by Laws of Utah 2010, Chapter 276
- 91 **63G-4-102**, as last amended by Laws of Utah 2019, Chapter 431
- 92 **63I-2-232**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
- 93 **77-39-101**, as last amended by Laws of Utah 2020, Chapters 302 and 347

94 ENACTS:

- 95 **32B-1-202.1**, Utah Code Annotated 1953
- 96 **32B-12-207**, Utah Code Annotated 1953

97 REPEALS:

- 98 **32B-8a-401**, as last amended by Laws of Utah 2020, Chapter 219
- 99 **32B-8a-402**, as last amended by Laws of Utah 2020, Chapter 219
- 100 **32B-8a-404**, as last amended by Laws of Utah 2020, Chapter 219

101

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

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

104 **32B-1-102. Definitions.**

105 As used in this title:

106 (1) "Airport lounge" means a business location:

- 107 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 108 (b) that is located at an international airport.

109 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

110 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

111 (3) "Alcoholic beverage" means the following:

- 112 (a) beer; or
- 113 (b) liquor.

114 (4) (a) "Alcoholic product" means a product that:

- 115 (i) contains at least .5% of alcohol by volume; and
- 116 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 117 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 118 in an amount equal to or greater than .5% of alcohol by volume.

119 (b) "Alcoholic product" includes an alcoholic beverage.

120 (c) "Alcoholic product" does not include any of the following common items that

- 121 otherwise come within the definition of an alcoholic product:
- 122 (i) except as provided in Subsection (4)(d), an extract;
 - 123 (ii) vinegar;
 - 124 (iii) preserved nonintoxicating cider;
 - 125 (iv) essence;
 - 126 (v) tincture;
 - 127 (vi) food preparation; or
 - 128 (vii) an over-the-counter medicine.
- 129 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
130 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 131 (5) "Alcohol training and education seminar" means a seminar that is:
- 132 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
 - 133 (b) described in Section [62A-15-401](#).
- 134 (6) "Arena" means an enclosed building:
- 135 (a) that is managed by:
 - 136 (i) the same person who owns the enclosed building;
 - 137 (ii) a person who has a majority interest in each person who owns or manages a space
138 in the enclosed building; or
 - 139 (iii) a person who has authority to direct or exercise control over the management or
140 policy of each person who owns or manages a space in the enclosed building;
 - 141 (b) that operates as a venue; and
 - 142 (c) that has an occupancy capacity of at least 12,500.
- 143 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
144 License Act, and Chapter 8c, Arena License Act.
- 145 (8) "Banquet" means an event:
- 146 (a) that is a private event or a privately sponsored event;
 - 147 (b) that is held at one or more designated locations approved by the commission in or
148 on the premises of:
 - 149 (i) a hotel;
 - 150 (ii) a resort facility;
 - 151 (iii) a sports center;

- 152 (iv) a convention center;
- 153 (v) a performing arts facility; or
- 154 (vi) an arena;
- 155 (c) for which there is a contract:
 - 156 (i) between a person operating a facility listed in Subsection (8)(b) and another person
 - 157 that has common ownership of less than 20% with the person operating the facility; and
 - 158 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
 - 159 provide an alcoholic product at the event; and
 - 160 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 161 (9) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 162 place of the surface or structure an alcoholic product is:
 - 163 (a) stored; or
 - 164 (b) dispensed.
- 165 (10) (a) "Bar establishment license" means a license issued in accordance with Chapter
- 166 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
 - 167 (b) "Bar establishment license" includes:
 - 168 (i) a dining club license;
 - 169 (ii) an equity license;
 - 170 (iii) a fraternal license; or
 - 171 (iv) a bar license.
 - 172 (11) "Bar license" means a license issued in accordance with Chapter 5, Retail License
 - 173 Act, and Chapter 6, Part 4, Bar Establishment License.
 - 174 (12) (a) Subject to Subsection (12)(d), "beer" means a product that:
 - 175 (i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by
 - 176 volume or 4% by weight; and
 - 177 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
 - 178 (b) "Beer" may or may not contain hops or other vegetable products.
 - 179 (c) "Beer" includes a product that:
 - 180 (i) contains alcohol in the percentages described in Subsection (12)(a); and
 - 181 (ii) is referred to as:
 - 182 (A) beer;

- 183 (B) ale;
- 184 (C) porter;
- 185 (D) stout;
- 186 (E) lager; or
- 187 (F) a malt or malted beverage.
- 188 (d) "Beer" does not include a flavored malt beverage.
- 189 (13) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 190 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 191 (14) "Beer retailer" means a business that:
- 192 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 193 for consumption on or off the business premises; and
- 194 (b) is licensed as:
- 195 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 196 Retailer Local Authority; or
- 197 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 198 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 199 (15) "Beer wholesaling license" means a license:
- 200 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 201 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 202 retail licensees or off-premise beer retailers.
- 203 (16) "Billboard" means a public display used to advertise, including:
- 204 (a) a light device;
- 205 (b) a painting;
- 206 (c) a drawing;
- 207 (d) a poster;
- 208 (e) a sign;
- 209 (f) a signboard; or
- 210 (g) a scoreboard.
- 211 (17) "Brewer" means a person engaged in manufacturing:
- 212 (a) beer;
- 213 (b) heavy beer; or

- 214 (c) a flavored malt beverage.
- 215 (18) "Brewery manufacturing license" means a license issued in accordance with
- 216 Chapter 11, Part 5, Brewery Manufacturing License.
- 217 (19) "Certificate of approval" means a certificate of approval obtained from the
- 218 department under Section [32B-11-201](#).
- 219 (20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 220 a bus company to a group of persons pursuant to a common purpose:
- 221 (a) under a single contract;
- 222 (b) at a fixed charge in accordance with the bus company's tariff; and
- 223 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 224 motor vehicle, and a driver to travel together to one or more specified destinations.
- 225 (21) "Church" means a building:
- 226 (a) set apart for worship;
- 227 (b) in which religious services are held;
- 228 (c) with which clergy is associated; and
- 229 (d) that is tax exempt under the laws of this state.
- 230 (22) "Commission" means the Alcoholic Beverage Control Commission created in
- 231 Section [32B-2-201](#).
- 232 (23) "Commissioner" means a member of the commission.
- 233 (24) "Community location" means:
- 234 (a) a public or private school;
- 235 (b) a church;
- 236 (c) a public library;
- 237 (d) a public playground; or
- 238 (e) a public park.
- 239 (25) "Community location governing authority" means:
- 240 (a) the governing body of the community location; or
- 241 (b) if the commission does not know who is the governing body of a community
- 242 location, a person who appears to the commission to have been given on behalf of the
- 243 community location the authority to prohibit an activity at the community location.
- 244 (26) "Container" means a receptacle that contains an alcoholic product, including:

- 245 (a) a bottle;
- 246 (b) a vessel; or
- 247 (c) a similar item.
- 248 (27) "Convention center" means a facility that is:
- 249 (a) in total at least 30,000 square feet; and
- 250 (b) otherwise defined as a "convention center" by the commission by rule.
- 251 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 252 where seating is provided to a patron for service of food.
- 253 (b) "Counter" does not include a dispensing structure.
- 254 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 255 (30) "Department" means the Department of Alcoholic Beverage Control created in
- 256 Section [32B-2-203](#).
- 257 (31) "Department compliance officer" means an individual who is:
- 258 (a) an auditor or inspector; and
- 259 (b) employed by the department.
- 260 (32) "Department sample" means liquor that is placed in the possession of the
- 261 department for testing, analysis, and sampling.
- 262 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 263 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 264 commission as a dining club license.
- 265 (34) "Director," unless the context requires otherwise, means the director of the
- 266 department.
- 267 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 268 title:
- 269 (a) against a person subject to administrative action; and
- 270 (b) that is brought on the basis of a violation of this title.
- 271 (36) (a) Subject to Subsection (36)(b), "dispense" means:
- 272 (i) drawing an alcoholic product; and
- 273 (ii) using the alcoholic product at the location from which it was drawn to mix or
- 274 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 275 (b) The definition of "dispense" in this Subsection (36) applies only to:

- 276 (i) a full-service restaurant license;
- 277 (ii) a limited-service restaurant license;
- 278 (iii) a reception center license;
- 279 (iv) a beer-only restaurant license;
- 280 (v) a bar license;
- 281 (vi) an on-premise beer retailer;
- 282 (vii) an airport lounge license;
- 283 (viii) an on-premise banquet license; and
- 284 (ix) a hospitality amenity license.
- 285 (37) "Dispensing structure" means a surface or structure on a licensed premises:
- 286 (a) where an alcoholic product is dispensed; or
- 287 (b) from which an alcoholic product is served.
- 288 (38) "Distillery manufacturing license" means a license issued in accordance with
- 289 Chapter 11, Part 4, Distillery Manufacturing License.
- 290 (39) "Distressed merchandise" means an alcoholic product in the possession of the
- 291 department that is saleable, but for some reason is unappealing to the public.
- 292 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail
- 293 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 294 commission as an equity license.
- 295 (41) "Event permit" means:
- 296 (a) a single event permit; or
- 297 (b) a temporary beer event permit.
- 298 (42) "Exempt license" means a license exempt under Section [32B-1-201](#) from being
- 299 considered in determining the total number of retail licenses that the commission may issue at
- 300 any time.
- 301 (43) (a) "Flavored malt beverage" means a beverage:
- 302 (i) that contains at least .5% alcohol by volume;
- 303 (ii) that is treated by processing, filtration, or another method of manufacture that is not
- 304 generally recognized as a traditional process in the production of a beer as described in 27
- 305 C.F.R. Sec. 25.55;
- 306 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop

307 extract; and

308 (iv) (A) for which the producer is required to file a formula for approval with the
309 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

310 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

311 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

312 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
313 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
314 commission as a fraternal license.

315 (45) "Full-service restaurant license" means a license issued in accordance with
316 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

317 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual
318 an alcoholic product, by sale or otherwise.

319 (b) "Furnish" includes to:

320 (i) serve;

321 (ii) deliver; or

322 (iii) otherwise make available.

323 (47) "Guest" means an individual who meets the requirements of Subsection
324 [32B-6-407\(9\)](#).

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

326 (49) "Health care practitioner" means:

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

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

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

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

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

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

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

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

339 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health

340 Professional Practice Act;

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

342 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical

343 Practice Act;

344 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

345 Hygienist Practice Act; and

346 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

347 Assistant Act.

348 (50) (a) "Heavy beer" means a product that:

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

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

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

352 (51) "Hospitality amenity license" means a license issued in accordance with Chapter

353 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

354 (52) (a) "Hotel" means a commercial lodging establishment that:

355 ~~[(a)]~~ (i) offers at least 40 rooms as temporary sleeping accommodations for

356 compensation;

357 ~~[(b)]~~ (ii) is capable of hosting conventions, conferences, and food and beverage

358 functions under a banquet contract; and

359 ~~[(c)-(i)]~~ (iii) (A) has adequate kitchen or culinary facilities on the premises to provide

360 complete meals; ~~[or]~~

361 ~~[(ii)-(A)]~~ (B) has at least 1,000 square feet of function space consisting of meeting or

362 dining rooms that can be reserved for private use under a banquet contract and can

363 accommodate at least 75 individuals; or

364 ~~[(B)]~~ (C) if the establishment is located in a small or unincorporated locality, has an

365 appropriate amount of function space consisting of meeting or dining rooms that can be

366 reserved for private use under a banquet contract, as determined by the commission.

367 (b) "Hotel" includes a commercial lodging establishment that:

368 (i) meets the requirements under Subsection (52)(a); and

369 (ii) has one or more privately owned dwelling units.

370 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail
371 License Act, and Chapter 8b, Hotel License Act.

372 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,
373 Part 8, Identification Card Act.

374 (55) "Industry representative" means an individual who is compensated by salary,
375 commission, or other means for representing and selling an alcoholic product of a
376 manufacturer, supplier, or importer of liquor.

377 (56) "Industry representative sample" means liquor that is placed in the possession of
378 the department for testing, analysis, and sampling by a local industry representative on the
379 premises of the department to educate the local industry representative of the quality and
380 characteristics of the product.

381 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
382 of an alcoholic product is prohibited by:

383 (a) law; or

384 (b) court order.

385 (58) "International airport" means an airport:

386 (a) with a United States Customs and Border Protection office on the premises of the
387 airport; and

388 (b) at which international flights may enter and depart.

389 (59) "Intoxicated" means that a person:

390 (a) is significantly impaired as to the person's mental or physical functions as a result of
391 the use of:

392 (i) an alcoholic product;

393 (ii) a controlled substance;

394 (iii) a substance having the property of releasing toxic vapors; or

395 (iv) a combination of Subsections (59)(a)(i) through (iii); and

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

398 (60) "Investigator" means an individual who is:

399 (a) a department compliance officer; or

- 400 (b) a nondepartment enforcement officer.
- 401 (61) "License" means:
- 402 (a) a retail license;
- 403 (b) a sublicense;
- 404 (c) a license issued in accordance with Chapter 11, Manufacturing and Related
- 405 Licenses Act;
- 406 (d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 407 (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 408 (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 409 (62) "Licensee" means a person who holds a license.
- 410 (63) "Limited-service restaurant license" means a license issued in accordance with
- 411 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 412 (64) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 413 than a bus or taxicab:
- 414 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 415 barrier;
- 416 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 417 accordance with the business entity's tariff; and
- 418 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 419 to travel to one or more specified destinations.
- 420 (65) (a) (i) "Liquor" means a liquid that:
- 421 (A) is:
- 422 (I) alcohol;
- 423 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 424 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 425 (IV) other drink or drinkable liquid; and
- 426 (B) (I) contains at least .5% alcohol by volume; and
- 427 (II) is suitable to use for beverage purposes.
- 428 (ii) "Liquor" includes:
- 429 (A) heavy beer;
- 430 (B) wine; and

- 431 (C) a flavored malt beverage.
- 432 (b) "Liquor" does not include beer.
- 433 (66) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 434 (67) "Liquor transport license" means a license issued in accordance with Chapter 17,
435 Liquor Transport License Act.
- 436 (68) "Liquor warehousing license" means a license that is issued:
- 437 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 438 (b) to a person, other than a licensed manufacturer, who engages in the importation for
439 storage, sale, or distribution of liquor regardless of amount.
- 440 (69) "Local authority" means:
- 441 (a) for premises that are located in an unincorporated area of a county, the governing
442 body of a county;
- 443 (b) for premises that are located in an incorporated city, town, or metro township, the
444 governing body of the city, town, or metro township; or
- 445 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
446 in a project area plan adopted by the Military Installation Development Authority under Title
447 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
448 Development Authority.
- 449 (70) "Lounge or bar area" is as defined by rule made by the commission.
- 450 (71) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
451 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 452 (72) "Member" means an individual who, after paying regular dues, has full privileges
453 in an equity licensee or fraternal licensee.
- 454 (73) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
455 or homeport facility for a ship:
- 456 (i) (A) under the control of the United States Department of Defense; or
457 (B) of the National Guard;
- 458 (ii) that is located within the state; and
- 459 (iii) including a leased facility.
- 460 (b) "Military installation" does not include a facility used primarily for:
- 461 (i) civil works;

462 (ii) a rivers and harbors project; or

463 (iii) a flood control project.

464 (74) "Minibar" means an area of a hotel guest room where one or more alcoholic
465 products are kept and offered for self-service sale or consumption.

466 (75) "Minor" means an individual under the age of 21 years.

467 (76) "Nondepartment enforcement agency" means an agency that:

468 (a) (i) is a state agency other than the department; or

469 (ii) is an agency of a county, city, town, or metro township; and

470 (b) has a responsibility to enforce one or more provisions of this title.

471 (77) "Nondepartment enforcement officer" means an individual who is:

472 (a) a peace officer, examiner, or investigator; and

473 (b) employed by a nondepartment enforcement agency.

474 (78) (a) "Off-premise beer retailer" means a beer retailer who is:

475 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

476 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
477 premises.

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

479 (79) "Off-premise beer retailer state license" means a state license issued in accordance
480 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

481 (80) "On-premise banquet license" means a license issued in accordance with Chapter
482 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

483 (81) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

492 (A) as a tavern; or

- 493 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 494 (82) "Opaque" means impenetrable to sight.
- 495 (83) "Package agency" means a retail liquor location operated:
- 496 (a) under an agreement with the department; and
- 497 (b) by a person:
- 498 (i) other than the state; and
- 499 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 500 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 501 (84) "Package agent" means a person who holds a package agency.
- 502 (85) "Patron" means an individual to whom food, beverages, or services are sold,
- 503 offered for sale, or furnished, or who consumes an alcoholic product including:
- 504 (a) a customer;
- 505 (b) a member;
- 506 (c) a guest;
- 507 (d) an attendee of a banquet or event;
- 508 (e) an individual who receives room service;
- 509 (f) a resident of a resort; or
- 510 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
- 511 license.
- 512 (86) (a) "Performing arts facility" means a multi-use performance space that:
- 513 (i) is primarily used to present various types of performing arts, including dance,
- 514 music, and theater;
- 515 (ii) contains over 2,500 seats;
- 516 (iii) is owned and operated by a governmental entity; and
- 517 (iv) is located in a city of the first class.
- 518 (b) "Performing arts facility" does not include a space that is used to present sporting
- 519 events or sporting competitions.
- 520 (87) "Permittee" means a person issued a permit under:
- 521 (a) Chapter 9, Event Permit Act; or
- 522 (b) Chapter 10, Special Use Permit Act.
- 523 (88) "Person subject to administrative action" means:

- 524 (a) a licensee;
- 525 (b) a permittee;
- 526 (c) a manufacturer;
- 527 (d) a supplier;
- 528 (e) an importer;
- 529 (f) one of the following holding a certificate of approval:
- 530 (i) an out-of-state brewer;
- 531 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 532 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 533 (g) staff of:
- 534 (i) a person listed in Subsections (88)(a) through (f); or
- 535 (ii) a package agent.
- 536 (89) "Premises" means a building, enclosure, or room used in connection with the
- 537 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 538 unless otherwise defined in this title or rules made by the commission.
- 539 (90) "Prescription" means an order issued by a health care practitioner when:
- 540 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 541 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 542 (b) the order is made in the course of that health care practitioner's professional
- 543 practice; and
- 544 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 545 (91) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 546 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 547 (92) "Principal license" means:
- 548 (a) a resort license;
- 549 (b) a hotel license; or
- 550 (c) an arena license.
- 551 (93) (a) "Private event" means a specific social, business, or recreational event:
- 552 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 553 group; and
- 554 (ii) that is limited in attendance to people who are specifically designated and their

555 guests.

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

558 (94) "Privately sponsored event" means a specific social, business, or recreational
559 event:

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

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

562 (95) (a) "Proof of age" means:

563 (i) an identification card;

564 (ii) an identification that:

565 (A) is substantially similar to an identification card;

566 (B) is issued in accordance with the laws of a state other than Utah in which the
567 identification is issued;

568 (C) includes date of birth; and

569 (D) has a picture affixed;

570 (iii) a valid driver license certificate that:

571 (A) includes date of birth;

572 (B) has a picture affixed; and

573 (C) is issued:

574 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

575 (II) in accordance with the laws of the state in which it is issued;

576 (iv) a military identification card that:

577 (A) includes date of birth; and

578 (B) has a picture affixed; or

579 (v) a valid passport.

580 (b) "Proof of age" does not include a driving privilege card issued in accordance with
581 Section [53-3-207](#).

582 (96) "Provisions applicable to a sublicense" means:

583 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
584 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

585 (b) for a limited-service restaurant sublicense, the provisions applicable to a

586 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

587 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
588 license under Chapter 6, Part 4, Bar Establishment License;

589 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
590 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

591 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
592 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

593 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
594 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

595 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
596 license under Chapter 6, Part 10, Hospitality Amenity License; and

597 (h) for a resort spa sublicense, the provisions applicable to the sublicense under
598 Chapter 8d, Part 2, Resort Spa Sublicense.

599 (97) (a) "Public building" means a building or permanent structure that is:

600 (i) owned or leased by:

601 (A) the state; or

602 (B) a local government entity; and

603 (ii) used for:

604 (A) public education;

605 (B) transacting public business; or

606 (C) regularly conducting government activities.

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

610 (98) "Public conveyance" means a conveyance that the public or a portion of the public
611 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or
612 other public conveyance.

613 (99) "Reception center" means a business that:

614 (a) operates facilities that are at least 5,000 square feet; and

615 (b) has as its primary purpose the leasing of the facilities described in Subsection

616 (99)(a) to a third party for the third party's event.

617 (100) "Reception center license" means a license issued in accordance with Chapter 5,
618 Retail License Act, and Chapter 6, Part 8, Reception Center License.

619 (101) (a) "Record" means information that is:

620 (i) inscribed on a tangible medium; or

621 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

622 (b) "Record" includes:

623 (i) a book;

624 (ii) a book of account;

625 (iii) a paper;

626 (iv) a contract;

627 (v) an agreement;

628 (vi) a document; or

629 (vii) a recording in any medium.

630 (102) "Residence" means a person's principal place of abode within Utah.

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

633 (104) "Resort" means the same as that term is defined in Section [32B-8-102](#).

634 (105) "Resort facility" is as defined by the commission by rule.

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

637 (107) "Resort license" means a license issued in accordance with Chapter 5, Retail
638 License Act, and Chapter 8, Resort License Act.

639 (108) "Responsible alcohol service plan" means a written set of policies and
640 procedures that outlines measures to prevent employees from:

641 (a) over-serving alcoholic beverages to customers;

642 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
643 intoxicated; and

644 (c) serving alcoholic beverages to minors.

645 (109) "Restaurant" means a business location:

646 (a) at which a variety of foods are prepared;

647 (b) at which complete meals are served; and

- 648 (c) that is engaged primarily in serving meals.
- 649 (110) "Restaurant license" means one of the following licenses issued under this title:
- 650 (a) a full-service restaurant license;
- 651 (b) a limited-service restaurant license; or
- 652 (c) a beer-only restaurant license.
- 653 (111) "Retail license" means one of the following licenses issued under this title:
- 654 (a) a full-service restaurant license;
- 655 (b) a master full-service restaurant license;
- 656 (c) a limited-service restaurant license;
- 657 (d) a master limited-service restaurant license;
- 658 (e) a bar establishment license;
- 659 (f) an airport lounge license;
- 660 (g) an on-premise banquet license;
- 661 (h) an on-premise beer license;
- 662 (i) a reception center license;
- 663 (j) a beer-only restaurant license;
- 664 (k) a hospitality amenity license;
- 665 (l) a resort license;
- 666 (m) a hotel license; or
- 667 (n) an arena license.
- 668 (112) "Room service" means furnishing an alcoholic product to a person in a guest
- 669 room or privately owned dwelling unit of a:
- 670 (a) hotel; or
- 671 (b) resort facility.
- 672 (113) (a) "School" means a building in which any part is used for more than three
- 673 hours each weekday during a school year as a public or private:
- 674 (i) elementary school;
- 675 (ii) secondary school; or
- 676 (iii) kindergarten.
- 677 (b) "School" does not include:
- 678 (i) a nursery school;

679 (ii) a day care center;

680 (iii) a trade and technical school;

681 (iv) a preschool; or

682 (v) a home school.

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

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

691 (116) "Serve" means to place an alcoholic product before an individual.

692 (117) "Sexually oriented entertainer" means a person who while in a state of
693 seminudity appears at or performs:

694 (a) for the entertainment of one or more patrons;

695 (b) on the premises of:

696 (i) a bar licensee; or

697 (ii) a tavern;

698 (c) on behalf of or at the request of the licensee described in Subsection (117)(b);

699 (d) on a contractual or voluntary basis; and

700 (e) whether or not the person is designated as:

701 (i) an employee;

702 (ii) an independent contractor;

703 (iii) an agent of the licensee; or

704 (iv) a different type of classification.

705 (118) "Shared seating area" means the licensed premises of two or more restaurant
706 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
707 accordance with Subsection [32B-5-207\(3\)](#).

708 (119) "Single event permit" means a permit issued in accordance with Chapter 9, Part
709 3, Single Event Permit.

710 (120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
711 beer, heavy beer, and flavored malt ~~[beverages]~~ beverage per year, not including beer, heavy
712 beer, or flavored malt beverage a brewer:

713 (a) manufactures that is unfit for consumption as, or in, a beverage, as the commission
714 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
715 Rulemaking Act; and

716 (b) does not sell for consumption as, or in, a beverage.

717 (121) "Small or unincorporated locality" means:

718 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

719 (b) a town, as classified under Section 10-2-301; or

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

722 (122) "Special use permit" means a permit issued in accordance with Chapter 10,
723 Special Use Permit Act.

724 (123) (a) "Spirituous liquor" means liquor that is distilled.

725 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
726 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

727 (124) "Sports center" is as defined by the commission by rule.

728 (125) (a) "Staff" means an individual who engages in activity governed by this title:

729 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
730 holder;

731 (ii) at the request of the business, including a package agent, licensee, permittee, or
732 certificate holder; or

733 (iii) under the authority of the business, including a package agent, licensee, permittee,
734 or certificate holder.

735 (b) "Staff" includes:

736 (i) an officer;

737 (ii) a director;

738 (iii) an employee;

739 (iv) personnel management;

740 (v) an agent of the licensee, including a managing agent;

- 741 (vi) an operator; or
- 742 (vii) a representative.
- 743 (126) "State of nudity" means:
- 744 (a) the appearance of:
- 745 (i) the nipple or areola of a female human breast;
- 746 (ii) a human genital;
- 747 (iii) a human pubic area; or
- 748 (iv) a human anus; or
- 749 (b) a state of dress that fails to opaquely cover:
- 750 (i) the nipple or areola of a female human breast;
- 751 (ii) a human genital;
- 752 (iii) a human pubic area; or
- 753 (iv) a human anus.
- 754 (127) "State of seminudity" means a state of dress in which opaque clothing covers no
- 755 more than:
- 756 (a) the nipple and areola of the female human breast in a shape and color other than the
- 757 natural shape and color of the nipple and areola; and
- 758 (b) the human genitals, pubic area, and anus:
- 759 (i) with no less than the following at its widest point:
- 760 (A) four inches coverage width in the front of the human body; and
- 761 (B) five inches coverage width in the back of the human body; and
- 762 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 763 (128) (a) "State store" means a facility for the sale of packaged liquor:
- 764 (i) located on premises owned or leased by the state; and
- 765 (ii) operated by a state employee.
- 766 (b) "State store" does not include:
- 767 (i) a package agency;
- 768 (ii) a licensee; or
- 769 (iii) a permittee.
- 770 (129) (a) "Storage area" means an area on licensed premises where the licensee stores
- 771 an alcoholic product.

- 772 (b) "Store" means to place or maintain in a location an alcoholic product.
- 773 (130) "Sublicense" means:
- 774 (a) any of the following licenses issued as a subordinate license to, and contingent on
- 775 the issuance of, a principal license:
- 776 (i) a full-service restaurant license;
- 777 (ii) a limited-service restaurant license;
- 778 (iii) a bar establishment license;
- 779 (iv) an on-premise banquet license;
- 780 (v) an on-premise beer retailer license;
- 781 (vi) a beer-only restaurant license; or
- 782 (vii) a hospitality amenity license; or
- 783 (b) a resort spa sublicense.
- 784 (131) "Supplier" means a person who sells an alcoholic product to the department.
- 785 (132) "Tavern" means an on-premise beer retailer who is:
- 786 (a) issued a license by the commission in accordance with Chapter 5, Retail License
- 787 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- 788 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 789 On-Premise Beer Retailer License.
- 790 (133) "Temporary beer event permit" means a permit issued in accordance with
- 791 Chapter 9, Part 4, Temporary Beer Event Permit.
- 792 (134) "Temporary domicile" means the principal place of abode within Utah of a
- 793 person who does not have a present intention to continue residency within Utah permanently or
- 794 indefinitely.
- 795 (135) "Translucent" means a substance that allows light to pass through, but does not
- 796 allow an object or person to be seen through the substance.
- 797 (136) "Unsaleable liquor merchandise" means a container that:
- 798 (a) is unsaleable because the container is:
- 799 (i) unlabeled;
- 800 (ii) leaky;
- 801 (iii) damaged;
- 802 (iv) difficult to open; or

- 803 (v) partly filled;
- 804 (b) (i) has faded labels or defective caps or corks;
- 805 (ii) has contents that are:
- 806 (A) cloudy;
- 807 (B) spoiled; or
- 808 (C) chemically determined to be impure; or
- 809 (iii) contains:
- 810 (A) sediment; or
- 811 (B) a foreign substance; or
- 812 (c) is otherwise considered by the department as unfit for sale.
- 813 (137) (a) "Wine" means an alcoholic product obtained by the fermentation of the
- 814 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
- 815 another ingredient is added.
- 816 (b) "Wine" includes:
- 817 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
- 818 4.10; and
- 819 (ii) hard cider.
- 820 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
- 821 in this title.
- 822 (138) "Winery manufacturing license" means a license issued in accordance with
- 823 Chapter 11, Part 3, Winery Manufacturing License.
- 824 Section 2. Section **32B-1-202** is amended to read:
- 825 **32B-1-202. Proximity to community location.**
- 826 (1) As used in this section:
- 827 (a) (i) "Outlet" means:
- 828 (A) a state store;
- 829 (B) a package agency; or
- 830 (C) a retail licensee.
- 831 (ii) "Outlet" does not include:
- 832 (A) an airport lounge licensee; or
- 833 (B) a restaurant.

834 (b) "Restaurant" means:

835 (i) a full-service restaurant licensee;

836 (ii) a limited-service restaurant licensee; or

837 (iii) a beer-only restaurant licensee.

838 (2) (a) [~~The~~] Except as otherwise provided in this section or Section 32B-1-202.1, the
839 commission may not issue a license for an outlet if, on the date the commission takes final
840 action to approve or deny the application, there is a community location:

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

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

847 (b) [~~The~~] Except as otherwise provided in this section or Section 32B-1-202.1, the
848 commission may not issue a license for a restaurant if, on the date the commission takes final
849 action to approve or deny the application, there is a community location:

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

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

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

861 (i) the outlet or restaurant changes ownership;

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

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

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

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

873 (a) the outlet or restaurant changes ownership;

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

875 (c) there is a lapse of one year or less in the use of the property as an outlet or a
876 restaurant with the same type of license, unless during the lapse the property is used for a
877 different purpose.

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

884 (i) the outlet or restaurant changes ownership;

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

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

888 (b) The provisions of this Subsection (5) apply regardless of when the outlet's or
889 restaurant's license is issued.

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

893 Section 3. Section **32B-1-202.1** is enacted to read:

894 **32B-1-202.1. Proximity in certain community reinvestment areas.**

895 The commission may issue a bar establishment license, a restaurant license, an

896 on-premise banquet license, or a package agency for a proposed location that does not meet the
897 proximity requirements under Section 32B-1-202, if:

898 (1) the proposed location:

899 (a) is in a city classified as a city of the first class under Section 10-2-301;

900 (b) is within the boundaries of a community reinvestment project area under Title 17C,
901 Chapter 5, Community Reinvestment;

902 (c) is not within 300 feet of a community location;

903 (d) is on the second or higher floor of a hotel;

904 (e) is not accessible at street level; and

905 (f) is only accessible to an individual who passes through another area of the hotel in
906 which the licensed premises of the retail license or package agency is located;

907 (2) the relevant board, as described in Section 17C-1-203, approves the community
908 reinvestment project area plan, as defined in Section 17C-1-102, that designates the boundaries
909 of the community reinvestment project area in which the proposed retail license or package
910 agency is located for the following purposes, as written in the resolution described in Section
911 17C-5-108 that approves the community reinvestment project area plan:

912 (a) to strengthen the culturally rich minority neighborhood;

913 (b) to advance the purpose and appreciation of the minority neighborhood culture; and

914 (c) to provide needed economic support to strengthen the culturally rich minority
915 neighborhood; and

916 (3) the applicant meets all other criteria under this title required for the type of retail
917 license or package agency the applicant seeks.

918 Section 4. Section 32B-1-207 is amended to read:

919 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

920 In calculating the annual gross receipts of a retail license or sublicense for purposes of
921 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
922 or an alcoholic product, a retail licensee may not include in the calculation the money from the
923 sale of:

924 (1) a bottle of wine by the retail licensee or under a sublicense that is in excess of \$175;

925 [or]

926 (2) an individual portion of wine, as described in Subsection 32B-5-304(2)(a), by the

927 retail licensee or under a sublicense that is in excess of \$30[-]; or
928 (3) an individual portion of spirituous liquor, as described in Subsection [32B-5-304\(1\)](#),
929 by the retail licensee or under a sublicense that is in excess of \$30.

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

931 **32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

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

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

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

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

941 (B) a crime involving moral turpitude; or

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

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

948 (i) a partner;

949 (ii) a managing agent;

950 (iii) a manager;

951 (iv) an officer;

952 (v) a director;

953 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
954 the corporation; or

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

956 (c) Except as provided in Subsection (7), the proscription under Subsection (1)(a)
957 applies if a person who is employed to act in a supervisory or managerial capacity for a

958 package agency, licensee, or permittee has been convicted of an offense described in
959 Subsection (1)(a).

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

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

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

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

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

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

973 (3) Except as described in Section 32B-8-501, the director may take emergency action
974 by immediately suspending the operation of the package agency, licensee, or permittee for the
975 period during which a criminal matter is being adjudicated if a person described in Subsection
976 (1):

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

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

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

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

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

989 of the corporation, or member who owns at least 20% of the limited liability company is or
990 was:

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

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

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

999 (b) The commission may not issue a package agency, licence, or permit to a
1000 partnership, corporation, or limited liability company if any of the following had any type of
1001 agency, license, or permit issued under this title revoked while acting in that person's individual
1002 capacity within the last three years:

1003 (i) a partner or managing agent of a partnership;

1004 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1005 total issued and outstanding stock of a corporation; or

1006 (iii) a manager or member who owns at least 20% of a limited liability company.

1007 (c) The commission may not issue a package agency, license, or permit to a person
1008 acting in an individual capacity if that person was:

1009 (i) a partner or managing agent of a partnership that had any type of agency, license, or
1010 permit issued under this title revoked within the last three years;

1011 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1012 total issued and outstanding stock of a corporation that had any type of agency, license, or
1013 permit issued under this title revoked within the last three years; or

1014 (iii) a manager or member who owned at least 20% of the limited liability company
1015 that had any type of agency, license, or permit issued under this title revoked within the last
1016 three years.

1017 (5) (a) The commission may not issue a package agency, license, or permit to a minor.

1018 (b) The commission may not issue a package agency, license, or permit to a
1019 partnership, corporation, or limited liability company if any of the following is a minor:

- 1020 (i) a partner or managing agent of the partnership;
- 1021 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
- 1022 total issued and outstanding stock of the corporation; or
- 1023 (iii) a manager or member who owns at least 20% of the limited liability company.
- 1024 (6) Except as described in Section 32B-8-501, if a package agent, licensee, or permittee
- 1025 no longer possesses the qualifications required by this title for obtaining a package agency,
- 1026 license, or permit, the commission may terminate the package agency agreement, or revoke the
- 1027 license or permit.

1028 (7) (a) If the licensee is a resort licensee:

1029 ~~[(a)]~~ (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b)

1030 engages in the management of the resort, as the commission defines in rule; and

1031 ~~[(b)]~~ (ii) Subsection (1)(c) only applies to an individual employed to act in a

1032 supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the

1033 resort license.

1034 (b) If the permittee is a public service permittee under Chapter 10, Special Use Permit

1035 Act:

1036 (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in

1037 the management of the airline, railroad, or other public conveyance, as the commission defines

1038 in rule; and

1039 (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or

1040 managerial capacity for the public service permittee.

1041 Section 6. Section 32B-2-304 is amended to read:

1042 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

1043 (1) For purposes of this section:

1044 (a) (i) "Landed case cost" means:

1045 (A) the cost of the product; and

1046 (B) inbound shipping costs incurred by the department.

1047 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse

1048 of the department to a state store.

1049 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

1050 ~~[(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who~~

1051 ~~manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt~~
1052 ~~beverage.]~~

1053 (2) Except as provided in Subsections (3) and (4):

1054 (a) spirituous liquor sold by the department within the state shall be marked up in an
1055 amount not less than 88% above the landed case cost to the department;

1056 (b) wine sold by the department within the state shall be marked up in an amount not
1057 less than 88% above the landed case cost to the department;

1058 (c) heavy beer sold by the department within the state shall be marked up in an amount
1059 not less than 66.5% above the landed case cost to the department; and

1060 (d) a flavored malt beverage sold by the department within the state shall be marked up
1061 in an amount not less than 88% above the landed case cost to the department.

1062 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
1063 up in an amount not less than 17% above the landed case cost to the department.

1064 (b) Except for spirituous liquor sold by the department to a military installation in
1065 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
1066 above the landed case cost to the department if:

1067 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
1068 proof gallons of spirituous liquor in a calendar year; and

1069 (ii) the manufacturer applies to the department for a reduced markup.

1070 (c) Except for wine sold by the department to a military installation in Utah, wine that
1071 is sold by the department within the state shall be marked up 49% above the landed case cost to
1072 the department if:

1073 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a
1074 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

1075 (B) for hard cider, the hard cider is manufactured by a manufacturer producing less
1076 than 620,000 gallons of hard cider in a calendar year; and

1077 (ii) the manufacturer applies to the department for a reduced markup.

1078 (d) Except for heavy beer and flavored malt beverage sold by the department to a
1079 military installation in Utah, heavy beer and flavored malt beverage that is sold by the
1080 department within the state shall be marked up:

1081 (i) 32% above the landed case cost to the department if:

1082 ~~(i)~~ (A) a small brewer that manufactures in a calendar year less than 40,000 barrels of
1083 beer, heavy beer, and flavored malt beverage manufactures the heavy beer or flavored malt
1084 beverage; and

1085 ~~(ii)~~ (B) the small brewer applies to the department for a reduced markup~~[-]; and~~

1086 (ii) 49% above the landed case cost to the department if:

1087 (A) a small brewer that manufactures in a calendar year 40,000 or more barrels of beer,
1088 heavy beer, and flavored malt beverage manufactures the heavy beer or flavored malt beverage;
1089 and

1090 (B) the small brewer applies to the department for a reduced markup.

1091 (e) For purposes of Subsection (3)(d), the amount of beer, heavy beer, and flavored
1092 malt beverage a small brewer manufactures in a calendar year does not include beer, heavy
1093 beer, or flavored malt beverage the brewer:

1094 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
1095 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1096 Rulemaking Act; and

1097 (ii) does not sell for consumption as, or in, a beverage.

1098 ~~(f)~~ (f) The department shall verify an amount described in Subsection (3)(b), (c), or
1099 (d) pursuant to a federal or other verifiable production report.

1100 ~~(g)~~ (g) For purposes of determining whether an alcoholic product qualifies for a
1101 markup under this Subsection (3), the department shall evaluate whether the manufacturer
1102 satisfies the applicable production requirement without considering the manufacturer's
1103 production of any other type of alcoholic product.

1104 (4) Wine the department purchases on behalf of a subscriber through the wine
1105 subscription program established in Section 32B-2-702 shall be marked up not less than 88%
1106 above the cost of the subscription for the interval in which the wine is purchased.

1107 (5) The department shall deposit 10% of the total gross revenue from sales of liquor
1108 with the state treasurer to be credited to the Uniform School Fund and used to support the
1109 school meals program administered by the State Board of Education under Section 53E-3-510.

1110 (6) This section does not prohibit the department from selling discontinued items at a
1111 discount.

1112 Section 7. Section 32B-2-306 is amended to read:

- 1113 **32B-2-306. Underage drinking prevention media and education campaign.**
- 1114 (1) As used in this section:
- 1115 (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory
- 1116 Council created in Section [63M-7-301](#).
- 1117 (b) "Restricted account" means the Underage Drinking Prevention Media and
- 1118 Education Campaign Restricted Account created in this section.
- 1119 (2) (a) There is created a restricted account within the General Fund known as the
- 1120 "Underage Drinking Prevention Media and Education Campaign Restricted Account."
- 1121 (b) The restricted account consists of:
- 1122 (i) deposits made under Subsection (3); and
- 1123 (ii) interest earned on the restricted account.
- 1124 (3) The department shall deposit [~~0.468%~~] 0.6% of the total gross revenue from sales
- 1125 of liquor with the state treasurer, as determined by the total gross revenue collected for the
- 1126 fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to
- 1127 the restricted account and to be used by the department as provided in Subsection (5).
- 1128 (4) The advisory council shall:
- 1129 (a) provide ongoing oversight of a media and education campaign funded under this
- 1130 section;
- 1131 (b) create an underage drinking prevention workgroup consistent with guidelines
- 1132 proposed by the advisory council related to the membership and duties of the underage
- 1133 drinking prevention workgroup;
- 1134 (c) create guidelines for how money appropriated for a media and education campaign
- 1135 can be used;
- 1136 (d) include in the guidelines established pursuant to this Subsection (4) that a media
- 1137 and education campaign funded under this section is carefully researched and developed, and
- 1138 appropriate for target groups; and
- 1139 (e) approve plans submitted by the department in accordance with Subsection (5).
- 1140 (5) (a) Subject to appropriation from the Legislature, the department shall expend
- 1141 money from the restricted account to direct and fund one or more media and education
- 1142 campaigns designed to reduce underage drinking in cooperation with the advisory council.
- 1143 (b) The department shall:

1144 (i) in cooperation with the underage drinking prevention workgroup created under
1145 Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of
1146 the money appropriated under this section;

1147 (ii) upon approval of the plan by the advisory council, conduct the media and education
1148 campaign in accordance with the guidelines made by the advisory council; and

1149 (iii) submit to the advisory council annually by no later than October 1, a written report
1150 detailing the use of the money for the media and education campaigns conducted under this
1151 Subsection (5) and the impact and results of the use of the money during the prior fiscal year
1152 ending June 30.

1153 Section 8. Section **32B-2-604** is amended to read:

1154 **32B-2-604. Bond related to package agency.**

1155 (1) (a) A package agent who has a consignment liquor inventory owned by the state
1156 shall post a:

1157 (i) consignment surety bond:

1158 (A) payable to the department; and

1159 (B) in the amount of the consignment inventory[:]; and

1160 (ii) cash or surety bond:

1161 (A) payable to the department; and

1162 (B) in the penal amount of at least \$1,000, as the department determines.

1163 (b) A package agent who has a consignment liquor inventory shall ensure that a
1164 consignment surety bond [~~shall be~~] is conditioned upon a package agent's return of the unsold
1165 consignment liquor inventory at the termination of a package agency agreement.

1166 (2) (a) A package agent that owns the package agency's liquor inventory shall post a
1167 cash bond or surety bond:

1168 (i) in the penal amount [~~fixed by the department, except that the penal amount shall be~~]
1169 of at least \$1,000, as the department determines; and

1170 (ii) payable to the department.

1171 (3) A package agent shall procure and maintain the bond required under this section for
1172 as long as the package agent continues to operate as a package agent.

1173 (4) A bond required under this section shall be:

1174 (a) in a form approved by the attorney general; and

1175 (b) conditioned upon the package agent's faithful compliance with this title, the rules of
1176 the commission, and the package agency agreement.

1177 (5) (a) If a surety bond posted by a package agency under this section is canceled due to
1178 the package agent's or package agency's negligence, the department may assess a \$300
1179 reinstatement fee.

1180 (b) No part of a bond posted by a package agent under this section may be withdrawn:

1181 (i) during the period the package agency is in effect; or

1182 (ii) while a revocation of the package agency is pending against the package agent.

1183 (6) (a) A bond posted under this section by a package agent may be forfeited if the
1184 package agency is revoked.

1185 (b) Notwithstanding Subsection (6)(a), the department may make a claim against a
1186 bond posted by a package agent for money owed the department under this title without the
1187 commission first revoking the package agency.

1188 Section 9. Section **32B-2-605** is amended to read:

1189 **32B-2-605. Operational requirements for package agency.**

1190 (1) (a) A person may not operate a package agency until a package agency agreement is
1191 entered into by the package agent and the department.

1192 (b) A package agency agreement shall state the conditions of operation by which the
1193 package agent and the department are bound.

1194 (c) (i) If a package agent or staff of the package agent violates this title, rules under this
1195 title, or the package agency agreement, the department may take any action against the package
1196 agent that is allowed by the package agency agreement.

1197 (ii) An action against a package agent is governed solely by its package agency
1198 agreement and may include suspension or revocation of the package agency.

1199 (iii) A package agency agreement shall provide procedures to be followed if a package
1200 agent fails to pay money owed to the department including a procedure for replacing the
1201 package agent or operator of the package agency.

1202 (iv) A package agency agreement shall provide that the package agency is subject to
1203 covert investigations for selling an alcoholic product to a minor.

1204 (v) Notwithstanding that this part refers to "package agency" or "package agent," staff
1205 of the package agency or package agent is subject to the same requirement or prohibition.

1206 (2) (a) A package agency shall be operated by an individual who is either:
1207 (i) the package agent; or
1208 (ii) an individual designated by the package agent.
1209 (b) An individual who is a designee under this Subsection (2) shall be:
1210 (i) an employee of the package agent; and
1211 (ii) responsible for the operation of the package agency.
1212 (c) The conduct of the designee is attributable to the package agent.
1213 (d) A package agent shall submit the name of the person operating the package agency
1214 to the department for the department's approval.
1215 (e) A package agent shall state the name and title of a designee on the application for a
1216 package agency.
1217 (f) A package agent shall:
1218 (i) inform the department of a proposed change in the individual designated to operate
1219 a package agency; and
1220 (ii) receive prior approval from the department before implementing the change
1221 described in this Subsection (2)(f).
1222 (g) Failure to comply with the requirements of this Subsection (2) may result in the
1223 immediate termination of a package agency agreement.
1224 (3) (a) A package agent shall display in a prominent place in the package agency the
1225 record issued by the commission that designates the package agency.
1226 (b) A package agent that displays or stores liquor at a location visible to the public
1227 shall display in a prominent place in the package agency a sign in large letters that consists of
1228 text in the following order:
1229 (i) a header that reads: "WARNING";
1230 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1231 can cause birth defects and permanent brain damage for the child.";
1232 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1233 [insert most current toll-free number] with questions or for more information.";
1234 (iv) a header that reads: "WARNING"; and
1235 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1236 serious crime that is prosecuted aggressively in Utah."

1237 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
1238 font style than the text described in Subsections (3)(b)(iv) and (v).

1239 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
1240 same font size.

1241 (d) The Department of Health shall work with the commission and department to
1242 facilitate consistency in the format of a sign required under this section.

1243 (4) A package agency may not display liquor or a price list in a window or showcase
1244 that is visible to passersby.

1245 (5) (a) A package agency may not purchase liquor from a person except from the
1246 department.

1247 (b) At the discretion of the department, the department may provide liquor to a package
1248 agency for sale on consignment.

1249 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
1250 other than as designated in the package agent's application, unless the package agent first
1251 applies for and receives approval from the department for a change of location within the
1252 package agency premises.

1253 (7) (a) Except as provided in Subsection (7)(b), a package agency may not sell, offer for
1254 sale, or furnish liquor except at a price fixed by the commission.

1255 (b) A package agency may provide as room service one alcoholic product free of
1256 charge per guest reservation, per guest room, if:

1257 (i) the package agency is the type of package agency that authorizes the package
1258 agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

1259 (ii) staff of the package agency provides the alcoholic product:

1260 (A) in person; and

1261 (B) only to an adult guest in the guest room;

1262 (iii) staff of the package agency does not leave the alcoholic product outside a guest
1263 room for retrieval by a guest; and

1264 (iv) the alcoholic product:

1265 (A) is not a spirituous liquor; and

1266 (B) is in an unopened container not to exceed 750 milliliters.

1267 (8) A package agency may not sell, offer for sale, or furnish liquor to:

- 1268 (a) a minor;
- 1269 (b) a person actually, apparently, or obviously intoxicated;
- 1270 (c) a known interdicted person; or
- 1271 (d) a known habitual drunkard.
- 1272 (9) (a) A package agency may not employ a minor to handle liquor.
- 1273 (b) (i) Staff of a package agency may not:
 - 1274 (A) consume an alcoholic product on the premises of a package agency; or
 - 1275 (B) allow any person to consume an alcoholic product on the premises of a package
 - 1276 agency.
- 1277 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.
- 1278 (10) (a) A package agency may not close or cease operation for a period longer than 72
- 1279 hours, unless:
 - 1280 (i) the package agency notifies the department in writing at least seven days before the
 - 1281 day on which the package agency closes or ceases operation; and
 - 1282 (ii) the closure or cessation of operation is first approved by the department.
- 1283 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
- 1284 agency shall immediately notify the department by telephone.
- 1285 (c) (i) The department may authorize a closure or cessation of operation for a period
- 1286 not to exceed 60 days.
- 1287 (ii) The department may extend the initial period described in Subsection (10)(c)(i) an
- 1288 additional 30 days upon written request of the package agency and upon a showing of good
- 1289 cause.
- 1290 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 1291 commission approval.
- 1292 (d) The notice required by Subsection (10)(a) shall include:
 - 1293 (i) the dates of closure or cessation of operation;
 - 1294 (ii) the reason for the closure or cessation of operation; and
 - 1295 (iii) the date on which the package agency will reopen or resume operation.
- 1296 (e) Failure of a package agency to provide notice and to obtain department
- 1297 authorization before closure or cessation of operation results in an automatic termination of the
- 1298 package agency agreement effective immediately.

1299 (f) Failure of a package agency to reopen or resume operation by the approved date
1300 results in an automatic termination of the package agency agreement effective on that date.

1301 (11) A package agency may not transfer the package agency's operations from one
1302 location to another location without prior written approval of the commission.

1303 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
1304 exchange, barter, give, or attempt in any way to dispose of the package agency to another
1305 person, whether for monetary gain or not.

1306 (b) A package agency has no monetary value for any type of disposition.

1307 (13) (a) Subject to the other provisions of this Subsection (13):

1308 (i) sale or delivery of liquor may not be made on or from the premises of a package
1309 agency, and a package agency may not be kept open for the sale of liquor:

1310 (A) on Sunday; or

1311 (B) on a state or federal legal holiday[-]; and

1312 (ii) [~~sale~~] sale or delivery of liquor may be made on or from the premises of a package
1313 agency, and a package agency may be open for the sale of liquor, only on a day and during
1314 hours that the commission directs by rule or order.

1315 (b) A package agency located at a manufacturing facility is not subject to Subsection
1316 (13)(a) if:

1317 (i) the package agency is located at a manufacturing facility licensed in accordance
1318 with Chapter 11, Manufacturing and Related Licenses Act;

1319 (ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing
1320 and Related Licenses Act, holds:

1321 (A) a full-service restaurant license;

1322 (B) a limited-service restaurant license;

1323 (C) a beer-only restaurant license;

1324 (D) a dining club license; or

1325 (E) a bar license;

1326 (iii) the restaurant, dining club, or bar is located at the manufacturing facility;

1327 (iv) the restaurant, dining club, or bar sells an alcoholic product produced at the
1328 manufacturing facility;

1329 (v) the manufacturing facility:

- 1330 (A) owns the restaurant, dining club, or bar; or
- 1331 (B) operates the restaurant, dining club, or bar;
- 1332 (vi) the package agency only sells an alcoholic product produced at the manufacturing
- 1333 facility; and
- 1334 (vii) the package agency's days and hours of sale are the same as the days and hours of
- 1335 sale at the restaurant, dining club, or bar.
- 1336 (c) (i) Subsection (13)(a) does not apply to a package agency held by the following if
- 1337 the package agent that holds the package agency to sell liquor at a resort or hotel does not sell
- 1338 liquor in a manner similar to a state store:
- 1339 (A) a resort licensee; or
- 1340 (B) a hotel licensee.
- 1341 (ii) The commission may by rule define what constitutes a package agency that sells
- 1342 liquor "in a manner similar to a state store."
- 1343 (14) (a) Except to the extent authorized by commission rule, a minor may not be
- 1344 admitted into, or be on the premises of, a package agency unless accompanied by a person who
- 1345 is:
- 1346 (i) 21 years of age or older; and
- 1347 (ii) the minor's parent, legal guardian, or spouse.
- 1348 (b) A package agent or staff of a package agency that has reason to believe that a
- 1349 person who is on the premises of a package agency is under the age of 21 and is not
- 1350 accompanied by a person described in Subsection (14)(a) may:
- 1351 (i) ask the suspected minor for proof of age;
- 1352 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 1353 (iii) ask the suspected minor or the person who accompanies the suspected minor for
- 1354 proof of parental, guardianship, or spousal relationship.
- 1355 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
- 1356 suspected minor and to the person who accompanies the suspected minor into the package
- 1357 agency if the minor or person fails to provide any information specified in Subsection (14)(b).
- 1358 (d) A package agent or staff of a package agency shall require the suspected minor and
- 1359 the person who accompanies the suspected minor into the package agency to immediately leave
- 1360 the premises of the package agency if the minor or person fails to provide information specified

1361 in Subsection (14)(b).

1362 (15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed
1363 container.

1364 (b) A person may not open a sealed container on the premises of a package agency.

1365 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or
1366 furnish liquor in other than a sealed container:

1367 (i) if the package agency is the type of package agency that authorizes the package
1368 agency to sell, offer for sale, or furnish the liquor as part of room service;

1369 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1370 (iii) subject to:

1371 (A) staff of the package agency providing the liquor in person only to an adult guest in
1372 the guest room or privately owned dwelling unit;

1373 (B) staff of the package agency not leaving the liquor outside a guest room or privately
1374 owned dwelling unit for retrieval by a guest or resident; and

1375 (C) the same limits on the portions in which an alcoholic product may be sold by a
1376 retail licensee under Section 32B-5-304.

1377 (16) [~~On or after October 1, 2011, a~~] A package agency may not sell, offer for sale, or
1378 furnish heavy beer in a sealed container that exceeds two liters.

1379 (17) The department may pay or otherwise remunerate a package agent on any basis,
1380 including sales or volume of business done by the package agency.

1381 (18) The commission may prescribe by policy or rule general operational requirements
1382 of a package agency that are consistent with this title and relate to:

1383 (a) physical facilities;

1384 (b) conditions of operation;

1385 (c) hours of operation;

1386 (d) inventory levels;

1387 (e) payment schedules;

1388 (f) methods of payment;

1389 (g) premises security; and

1390 (h) any other matter considered appropriate by the commission.

1391 (19) A package agency may not maintain a minibar.

1392 (20) A package agency that is located at a manufacturing facility licensed in
1393 accordance with Chapter 11, Manufacturing and Related Licenses Act, may permit a patron to
1394 pick up from the package agency's licensed premises an alcoholic product that the patron
1395 ordered online, if the package agency does not process payment for the alcoholic product
1396 before:

1397 (a) the patron picks up the alcoholic product from the package agency's licensed
1398 premises; and

1399 (b) the package agency verifies that the person who picks up the alcoholic product is
1400 the patron who placed the order for the alcoholic product online.

1401 Section 10. Section **32B-4-403** is amended to read:

1402 **32B-4-403. Unlawful sale, offer for sale, or furnishing to minor.**

1403 (1) A person may not sell, offer for sale, or furnish an alcoholic product to a minor.

1404 (2) (a) (i) Except as provided in Subsection (3), a person is guilty of a class B
1405 misdemeanor if the person who violates Subsection (1) negligently or recklessly fails to
1406 determine whether the recipient of the alcoholic product is a minor.

1407 (ii) As used in this Subsection (2)(a), "negligently" means with simple negligence.

1408 (b) Except as provided in Subsection (3), a person is guilty of a class A misdemeanor if
1409 the person who violates Subsection (1) knows the [recipient] purchaser of the alcoholic product
1410 is a minor.

1411 (3) This section does not apply to the furnishing of an alcoholic product to a minor in
1412 accordance with this title:

1413 (a) for medicinal purposes by:

1414 (i) the parent or guardian of the minor; or

1415 (ii) the health care practitioner of the minor, if the health care practitioner is authorized
1416 by law to write a prescription; or

1417 (b) as part of a religious organization's religious services.

1418 Section 11. Section **32B-4-404** is amended to read:

1419 **32B-4-404. Unlawful sale, offer for sale, or furnishing to intoxicated person.**

1420 (1) A person may not sell, offer for sale, or furnish an alcoholic product directly to:

1421 (a) a person who is actually or apparently intoxicated; or

1422 (b) a person whom the person furnishing the alcoholic product knows or should know

1423 from the circumstances is actually or apparently intoxicated.

1424 (2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a
1425 class B misdemeanor.

1426 (b) A person who knowingly violates Subsection (1) is guilty of a class A
1427 misdemeanor.

1428 (3) As used in Subsection (2)(a), "negligently" means with simple negligence.

1429 Section 12. Section **32B-5-202** is amended to read:

1430 **32B-5-202. Renewal requirements.**

1431 (1) A retail license expires each year on the day specified in the relevant chapter or part
1432 for that type of retail license.

1433 (2) (a) To renew a person's retail license, a retail licensee shall ~~by no later than the~~
1434 ~~day specified in the relevant chapter or part for the type of retail license that the person seeks to~~
1435 ~~renew,]~~ submit:

1436 (i) a completed renewal application in a form prescribed by the department; ~~and]~~

1437 (ii) a renewal fee in the amount specified in the relevant chapter or part for the type of
1438 retail license that the person seeks to renew[:]; and

1439 ~~[(b) A retail licensee shall submit]~~ (iii) a responsible alcohol service plan ~~[as part of~~
1440 ~~the retail licensee's renewal application]~~ if, since the retail licensee's most recent application or
1441 renewal, the retail licensee:

1442 ~~[(i)]~~ (A) made substantial changes to the retail licensee's responsible alcohol service
1443 plan; or

1444 ~~[(ii)]~~ (B) violated a provision of this chapter.

1445 (b) (i) Except as provided for in Subsection (2)(b)(ii), a retail licensee shall fulfill the
1446 renewal requirements under Subsection (2)(a) on or before the day specified in the relevant
1447 chapter or part for the type of retail license that the person seeks to renew.

1448 (ii) The commission may:

1449 (A) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1450 Rulemaking Act, permitting and establishing the parameters of late retail license renewals; and

1451 (B) establish a fee, in accordance with Section 63J-1-504, for late retail license
1452 renewals.

1453 (c) The department may audit a retail licensee's responsible alcohol service plan.

1454 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
1455 retail license effective on the day on which the existing retail license expires.

1456 Section 13. Section **32B-5-205** is amended to read:

1457 **32B-5-205. Conditional retail license.**

1458 (1) As used in this section:

1459 (a) "Conditional retail license" means a retail license that:

1460 (i) conditions the holder's ability to sell, offer for sale, furnish, or allow the
1461 consumption of an alcoholic product on its licensed premises on the person submitting to the
1462 department a copy of the holder's current business license before obtaining a valid retail
1463 license; and

1464 (ii) provides that the holder will be issued a valid retail license if the holder complies
1465 with the requirements of Subsection (3).

1466 (b) "Valid retail license" means a retail license issued pursuant to this part under which
1467 the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1468 product on its licensed premises.

1469 (2) Subject to the requirements of this section, the commission may issue a conditional
1470 retail license to a person if the person:

1471 (a) meets the requirements to obtain the retail license for which the person is applying
1472 except the requirement to submit a copy of the person's current business license; and

1473 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1474 product on its licensed premises before obtaining a valid retail license.

1475 (3) (a) A conditional retail license becomes a valid retail license on the day on which
1476 the department notifies the person who holds the conditional retail license that the department
1477 finds that the person has complied with Subsection (3)(b).

1478 (b) For a conditional retail license to become a valid retail license, a person who holds
1479 the conditional retail license shall:

1480 (i) submit to the department a copy of the person's current business license; and

1481 (ii) provide to the department evidence satisfactory to the department that:

1482 (A) there has been no change in the information submitted to the commission as part of
1483 the person's application for a retail license; and

1484 (B) the person continues to qualify for the retail license.

1485 (4) (a) A conditional retail license expires [~~nine~~] 18 months after the day on which the
1486 commission issues the conditional retail license, unless the conditional retail license becomes a
1487 valid retail license before that day.

1488 (b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a
1489 conditional retail license an additional [~~three~~] six months if the holder of the conditional
1490 license can show to the satisfaction of the commission that the holder of the conditional
1491 license:

1492 (i) has an active building permit related to the licensed premises; and

1493 (ii) is engaged in a good faith effort to pursue completion within the [~~three~~] six-month
1494 period.

1495 Section 14. Section **32B-5-307** is amended to read:

1496 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
1497 **premises.**

1498 (1) Except as provided in Subsections (3) [~~through (5)~~] and (4):

1499 (a) [~~A~~] a person may not bring onto the licensed premises of a retail licensee an
1500 alcoholic product for on-premise consumption[~~;~~];

1501 (b) [~~A~~] a retail licensee may not allow a person to:

1502 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

1503 (ii) consume an alcoholic product brought onto the licensed premises by a person other
1504 than the retail licensee[~~;~~]; and

1505 (c) [~~A~~] a retail licensee may not sell, offer for sale, or furnish an alcoholic product
1506 through a window or door to a location off the licensed premises or to a vehicular traffic area.

1507 (2) Except as provided in Subsections (3) [~~through (5)~~], (4), and Subsection

1508 32B-4-415(5):

1509 (a) a person may not carry from a licensed premises of a retail licensee an open
1510 container that:

1511 (i) is used primarily for drinking purposes; and

1512 (ii) contains an alcoholic product;

1513 (b) a retail licensee may not permit a patron to carry from the licensed premises an
1514 open container described in Subsection (2)(a); and

1515 (c) (i) a person may not carry from a licensed premises of a retail licensee a sealed

1516 container of liquor that has been purchased from the retail licensee; and

1517 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
1518 sealed container of liquor that has been purchased from the retail licensee.

1519 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
1520 on-premise consumption if:

1521 (i) permitted by the retail licensee; and

1522 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

1523 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
1524 patron shall deliver the bottled wine to a server or other representative of the retail licensee
1525 upon entering the licensed premises.

1526 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
1527 wine service for a bottled wine carried onto the licensed premises in accordance with this
1528 Subsection (3) or a bottled wine purchased at the licensed premises.

1529 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
1530 of wine purchased at the licensed premises, or brought onto the licensed premises in
1531 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

1532 [~~(4) A patron may transport beer between the sublicensed premises of an arena
1533 licensee's accompanying sublicenses, if the patron transports the beer from and to an area of
1534 each sublicensed premises:]~~

1535 [~~(a) that is adjacent to the other; and]~~

1536 [~~(b) where the consumption of beer is permitted:]~~

1537 [~~(5)~~] (4) Neither a patron nor a retail licensee violates this section if:

1538 (a) the patron is in shared seating; and

1539 (b) the patron purchased the patron's alcoholic beverage from a restaurant licensee
1540 whose licensed premises include the shared seating area the patron is in.

1541 Section 15. Section **32B-5-310** is amended to read:

1542 **32B-5-310. Notifying department of change in ownership -- Inventory transfers --**
1543 **Interim alcoholic beverage management agreements.**

1544 (1) The commission may suspend or revoke a retail license if the retail licensee does
1545 not [~~immediately~~] notify the department, within 60 days after the day on which the change
1546 occurs, of a change in:

- 1547 (a) ownership of the retail license;
- 1548 (b) the entity that manages the retail licensee or a premises licensed under this chapter;
- 1549 (c) for a corporate owner, the:
- 1550 (i) corporate officers or directors of the retail licensee; or
- 1551 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 1552 corporation; or
- 1553 (d) for a limited liability company:
- 1554 (i) managers of the limited liability company; or
- 1555 (ii) members owning at least 20% of the limited liability company.
- 1556 (2) Notwithstanding any other provision of this title, in connection with an event
- 1557 described in Section [32B-8a-202](#) or an asset sale of a retail licensee, the parties to the
- 1558 transaction may enter into an inventory transfer agreement.
- 1559 (3) A retail licensee may enter into an interim alcoholic beverage management
- 1560 agreement that provides:
- 1561 (a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the
- 1562 current retail licensee; and
- 1563 (b) for the duration of the agreement, the current retail licensee:
- 1564 (i) shall comply with the requirements of this title that are applicable to the retail
- 1565 license; and
- 1566 (ii) in accordance with this title, is subject to disciplinary action by the commission for
- 1567 any violation of this title.
- 1568 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1569 department may make rules governing the requirements of:
- 1570 (a) an inventory transfer agreement; and
- 1571 (b) an interim alcoholic beverage management agreement.
- 1572 Section 16. Section **32B-6-605** is amended to read:
- 1573 **32B-6-605. Specific operational requirements for on-premise banquet license.**
- 1574 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
- 1575 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
- 1576 shall comply with this section.
- 1577 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

1578 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1579 (i) an on-premise banquet licensee;
- 1580 (ii) individual staff of an on-premise banquet licensee; or
- 1581 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

1582 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and
1583 (5) for the entire premises of the hotel, resort facility, sports center, convention center, or
1584 performing arts facility that is the basis for the on-premise banquet license.

1585 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
1586 shall provide the department with advance notice of a scheduled banquet in accordance with
1587 rules made by the commission.

1588 (b) Any of the following may conduct a random inspection of a banquet:

- 1589 (i) an authorized representative of the commission or the department; or
- 1590 (ii) a law enforcement officer.

1591 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall
1592 make and maintain the records the commission or department requires.

1593 (b) Section 32B-1-205 applies to a record required to be made or maintained in
1594 accordance with this Subsection (4).

1595 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
1596 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
1597 location of the banquet.

1598 (b) Except as provided in [~~Subsections~~] Subsection 32B-5-307(4) [~~and (5)~~], a host of a
1599 banquet, a patron, or a person other than the on-premise banquet licensee or staff of the
1600 on-premise banquet licensee, may not remove an alcoholic product from the premises of the
1601 banquet.

1602 (c) Notwithstanding Subsection 32B-5-307(3) and except as provided in [~~Subsections~~]
1603 Subsection 32B-5-307(4) [~~and (5)~~], a patron at a banquet may not bring an alcoholic product
1604 into or onto, or remove an alcoholic product from, the premises of a banquet.

1605 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at
1606 the banquet following the conclusion of the banquet.

1607 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

- 1608 (i) destroy an opened and unused alcoholic product that is not saleable, under

- 1609 conditions established by the department; and
- 1610 (ii) return to the on-premise banquet licensee's approved locked storage area any:
- 1611 (A) opened and unused alcoholic product that is saleable; and
- 1612 (B) unopened container of an alcoholic product.
- 1613 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed container
- 1614 of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:
- 1615 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
- 1616 locked storage area; and
- 1617 (ii) may use the alcoholic product at more than one banquet.
- 1618 (7) Notwithstanding Section [32B-5-308](#), an on-premise banquet licensee may not
- 1619 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
- 1620 on-premise banquet licensee's banquet and room service activities.
- 1621 (8) An on-premise banquet licensee:
- 1622 (a) may provide room service in portions described in Section [32B-5-304](#);
- 1623 (b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in
- 1624 connection with room service any day during a period that:
- 1625 (i) begins at 1 a.m.; and
- 1626 (ii) ends at 9:59 a.m.; and
- 1627 (c) notwithstanding Section [32B-5-305](#), may provide as room service one alcoholic
- 1628 product free of charge per guest reservation, per guest room, if the alcoholic product:
- 1629 (i) is not a spirituous liquor; and
- 1630 (ii) is in an unopened container not to exceed 750 milliliters.
- 1631 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
- 1632 more than two alcoholic products of any kind at a time before the patron.
- 1633 (b) A patron may not have more than one spirituous liquor drink at a time before the
- 1634 patron.
- 1635 (c) An individual portion of wine is considered to be one alcoholic product under
- 1636 Subsection (9)(a).
- 1637 (10) (a) An on-premise banquet licensee shall supervise and direct a person involved in
- 1638 the sale, offer for sale, or furnishing of an alcoholic product.
- 1639 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product

1640 shall complete an alcohol training and education seminar.

1641 (11) A staff person of an on-premise banquet licensee shall remain at the banquet at all
1642 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the
1643 banquet.

1644 (12) (a) Room service of an alcoholic product to a guest room or privately owned
1645 dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise
1646 banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

1647 (b) An alcoholic product may not be left outside a guest room or privately owned
1648 dwelling unit for retrieval by a guest or resident.

1649 (13) An on-premise banquet licensee may not maintain a minibar.

1650 Section 17. Section **32B-6-703** is amended to read:

1651 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

1652 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
1653 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
1654 beer retailer license from the commission in accordance with this part.

1655 (2) (a) The commission may issue an on-premise beer retailer license to establish
1656 on-premise beer retailer licensed premises at places and in numbers as the commission
1657 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
1658 premises operated as an on-premise beer retailer.

1659 (b) At the time that the commission issues an on-premise beer retailer license, the
1660 commission shall designate whether the on-premise beer retailer is a tavern.

1661 (c) The commission may change its designation of whether an on-premise beer retailer
1662 is a tavern in accordance with rules made by the commission.

1663 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
1664 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
1665 beer for consumption on the establishment's premises.

1666 (ii) In making a determination under this Subsection (2)(d), the commission shall
1667 consider:

1668 (A) whether the on-premise beer retailer will operate as one of the following:

1669 (I) a beer bar;

1670 (II) a parlor;

- 1671 (III) a lounge;
- 1672 (IV) a cabaret; or
- 1673 (V) a nightclub;
- 1674 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 1675 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 1676 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 1677 will exceed the revenue of the sale of food;
- 1678 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 1679 (D) the square footage and seating capacity of the premises;
- 1680 (E) what portion of the square footage and seating capacity will be used for a dining
- 1681 area in comparison to the portion that will be used as a lounge or bar area;
- 1682 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 1683 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 1684 the culinary facilities of the hotel or resort facility;
- 1685 (G) whether the entertainment provided on the premises of the beer retailer will be
- 1686 suitable for minors; and
- 1687 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 1688 retailer license including:
- 1689 (I) management experience;
- 1690 (II) past beer retailer management experience; and
- 1691 (III) the type of management scheme that will be used by the beer retailer.
- 1692 [~~e~~ On or after March 1, 2012:]
- 1693 (e) (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
- 1694 (A) own or operate a recreational amenity and maintain at least 70% of the person's
- 1695 total gross revenues from business directly related to ~~[a]~~ the recreational amenity on or directly
- 1696 adjoining the licensed premises of the beer retailer, except that a person may include gross
- 1697 revenue from business directly related to a recreational amenity that is owned or operated by a
- 1698 political subdivision if the person has a contract meeting the requirements of Subsection
- 1699 (2)(e)(iv) with the political subdivision; ~~[or]~~
- 1700 (B) ~~[have]~~ own or operate a recreational amenity on or directly adjoining the licensed
- 1701 premises of the beer retailer and maintain at least 70% of the person's total gross revenues from

1702 the sale of food[-]; or

1703 (C) if the licensed premises of the on-premise beer retailer is on or directly adjoining a
1704 ski resort on January 1, 2021, obtain the consent of the ski resort to operate as an on-premise
1705 beer retailer that is not a tavern and maintain at least 70% of the person's total gross revenues
1706 from the sale of food.

1707 (ii) The commission may not license a person as an on-premise beer retailer if the
1708 person does not:

1709 (A) meet the requirements of Subsection (2)(e)(i); or

1710 (B) operate as a tavern.

1711 (iii) A person who~~[, after August 1, 2011,]~~ applies for an on-premise beer retailer
1712 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
1713 have or construct facilities for the dispensing or storage of an alcoholic product that do not
1714 meet the requirements of Subsection 32B-6-905(11)(a)(ii).

1715 (iv) A contract described in Subsection (2)(e)(i)(A) shall:

1716 (A) allow the beer retailer to include the total gross revenue from operations of the
1717 recreational amenity in the beer retailer's total gross receipts for purposes of Subsection
1718 (2)(e)(i)(A); and

1719 (B) give the department the authority to audit financial information of the political
1720 subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A)
1721 are met.

1722 (3) Subject to Section 32B-1-201:

1723 (a) ~~[The]~~ the commission may not issue a total number of on-premise beer retailer
1724 licenses that are taverns that at any time exceeds the number determined by dividing the
1725 population of the state by 73,666[-]; and

1726 (b) ~~[The]~~ the commission may issue a seasonal on-premise beer retailer license for a
1727 tavern in accordance with Section 32B-5-206.

1728 (4) (a) Unless otherwise provided in Subsection (4)(b):

1729 (i) only one on-premise beer retailer license is required for each building or resort
1730 facility owned or leased by the same person; and

1731 (ii) a separate license is not required for each retail beer dispensing location in the
1732 same building or on the same resort premises owned or operated by the same person.

1733 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
1734 building or resort facility operates in the same manner.

1735 (ii) If each retail beer dispensing location does not operate in the same manner:

1736 (A) one on-premise beer retailer license designated as a tavern is required for the
1737 locations in the same building or on the same resort premises that operate as a tavern; and

1738 (B) one on-premise beer retailer license is required for the locations in the same
1739 building or on the same resort premises that do not operate as a tavern.

1740 Section 18. Section **32B-6-1004** is amended to read:

1741 **32B-6-1004. Specific licensing requirements for a hospitality amenity license.**

1742 (1) To obtain a hospitality amenity license a person shall comply with Chapter 5, Part
1743 2, Retail Licensing Process.

1744 (2) (a) A hospitality amenity license expires on October 31 of each year.

1745 (b) To renew a person's hospitality amenity license, a person shall comply with the
1746 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
1747 September 30.

1748 (3) (a) The nonrefundable application fee for a hospitality amenity license is \$330.

1749 (b) The initial license fee for a hospitality amenity license is \$2,000.

1750 (c) The renewal fee for a hospitality amenity license is \$1,000.

1751 (4) The bond amount required for a hospitality amenity license is the penal sum of
1752 \$10,000.

1753 (5) Notwithstanding Subsection [32B-5-303\(3\)](#), the [~~department~~] commission may
1754 approve an additional location in or on the licensed premises of a hospitality amenity licensee
1755 from which the hospitality amenity licensee may store, sell, offer for sale, furnish, or allow the
1756 consumption of an alcoholic product that is not included in the person's original application
1757 only:

1758 (a) upon proper application by a hospitality amenity licensee; and

1759 (b) in accordance with guidelines the commission approves.

1760 Section 19. Section **32B-7-202** is amended to read:

1761 **32B-7-202. General operational requirements for off-premise beer retailer.**

1762 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
1763 with the provisions of this title and any applicable rules made by the commission.

- 1764 (b) Failure to comply with this section may result in:
- 1765 (i) a suspension or revocation of a local license; and~~[, on or after July 1, 2018,]~~
- 1766 (ii) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
- 1767 Enforcement Act.
- 1768 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
- 1769 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
- 1770 from:
- 1771 (A) a beer wholesaler licensee; or
- 1772 (B) a small brewer that manufactures the beer.
- 1773 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.
- 1774 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
- 1775 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
- 1776 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
- 1777 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
- 1778 the department to sell to the off-premise beer retailer as provided in Section [32B-13-301](#).
- 1779 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.
- 1780 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
- 1781 container larger than two liters.
- 1782 (4) (a) Staff of an off-premise beer retailer, while on duty, may not:
- 1783 (i) consume an alcoholic product; or
- 1784 (ii) be intoxicated.
- 1785 (b) A minor may not sell beer on the licensed premises of an off-premise beer retailer
- 1786 unless:
- 1787 (i) the sale is done under the supervision of a person 21 years ~~[of age]~~ old or older who
- 1788 is on the licensed premises; and
- 1789 (ii) the minor is at least 16 years ~~[of age]~~ old.
- 1790 (5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic
- 1791 product to:
- 1792 (a) a minor;
- 1793 (b) a person actually, apparently, or obviously intoxicated;
- 1794 (c) a known interdicted person; or

1795 (d) a known habitual drunkard.

1796 (6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer
1797 retailer shall:

1798 (i) display all beer accessible by and visible to a patron in no more than two locations
1799 on the retail sales floor, each of which is:

1800 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only
1801 beverage displayed; and

1802 (B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler
1803 with a door from which the nonalcoholic beverages are not accessible, or the beer is separated
1804 from the display of nonalcoholic beverages by a display of one or more nonbeverage products
1805 or another physical divider; and

1806 (ii) display a sign in the area described in Subsection (6)(a)(i) that:

1807 (A) is prominent;

1808 (B) is easily readable by a consumer;

1809 (C) meets the requirements for format established by the commission by rule; and

1810 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
1811 alcohol. Please read the label carefully."

1812 (b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer
1813 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

1814 (c) The requirements of this Subsection (6) apply to beer notwithstanding that it is
1815 labeled, packaged, or advertised as:

1816 (i) a malt cooler; or

1817 (ii) a beverage that may provide energy.

1818 (d) A violation of this Subsection (6) is an infraction.

1819 ~~[(e) (i) Except as provided in Subsection (6)(c)(ii), the provisions of Subsection~~
1820 ~~(6)(a)(i) apply on and after May 9, 2017.]~~

1821 ~~[(ii) For a beer retailer that operates two or more off-premise beer retailers, the~~
1822 ~~provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.]~~

1823 (7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
1824 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
1825 shall wear a unique identification badge:

1826 (i) on the front of the staff's clothing;
1827 (ii) visible above the waist;
1828 (iii) bearing the staff's:
1829 (A) first or last name;
1830 (B) initials; or
1831 (C) unique identification in letters or numbers; and
1832 (iv) with the number or letters on the unique identification badge being sufficiently
1833 large to be clearly visible and identifiable while engaging in or directly supervising the retail
1834 sale of beer.

1835 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
1836 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

- 1837 (i) full name;
- 1838 (ii) address; and
- 1839 (iii) (A) driver license number; or
- 1840 (B) similar identification number.

1841 (c) An off-premise beer retailer shall make available a record required to be made or
1842 maintained under this Subsection (7) for immediate inspection by:

- 1843 (i) a peace officer;
- 1844 (ii) a representative of the local authority that issues the off-premise beer retailer
1845 license; or
- 1846 (iii) for an off-premise beer retailer state license, a representative of the commission or
1847 department.

1848 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
1849 retailer that does not comply or require its staff to comply with this Subsection (7).

1850 (8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a
1851 drive through window.

1852 (b) Subsection (8)(a) does not modify the display limitations and requirements
1853 described in Subsection (6).

1854 (9) An off-premise beer retailer may permit a patron to pick up from the off-premise
1855 beer retailer's licensed premises beer that the patron ordered online, if the off-premise beer
1856 retailer does not process payment for the beer before:

1857 (a) the patron picks up the beer from the off-premise beer retailer's licensed premises;
1858 and
1859 (b) the off-premise beer retailer verifies that the patron who picks up the beer is the
1860 patron who placed the order for the beer online.

1861 Section 20. Section **32B-8-501** is amended to read:

1862 **32B-8-501. Enforcement of qualifications for resort license or sublicense.**

1863 (1) The commission or department may not take an action described in Subsection (2)
1864 with regard to a resort license unless the person who is found not to meet the qualifications of
1865 Subsection **32B-1-304(1)** is one of the following who is engaged in the management of the
1866 resort:

1867 (a) a partner;

1868 (b) a managing agent;

1869 (c) a manager;

1870 (d) an officer;

1871 (e) a director;

1872 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the
1873 corporation;

1874 (g) a member who owns at least 20% of the limited liability company; or

1875 (h) a person employed to act in a supervisory or managerial capacity for the resort
1876 licensee.

1877 (2) Subsection (1) applies to:

1878 (a) the commission immediately suspending or revoking a resort license, if after the
1879 day on which the resort license is issued, a person described in Subsection **32B-1-304(7)(a)(i)**:

1880 (i) is found to have been convicted of an offense described in Subsection

1881 **32B-1-304(1)(a)** before the commission issues the resort license; or

1882 (ii) on or after the day on which the commission issues the resort license:

1883 (A) is convicted of an offense described in Subsection **32B-1-304(1)(a)(i)** or (ii); or

1884 (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined
1885 influence of alcohol and a drug; and

1886 (II) was convicted of driving under the influence of alcohol, a drug, or the combined
1887 influence of alcohol and a drug within five years before the day on which the person is

1888 convicted of the offense described in Subsection (2)(b)(ii)(A);

1889 (b) the director taking an emergency action by immediately suspending the operation of
1890 a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for
1891 the period during which the criminal matter is being adjudicated if a person described in
1892 Subsection 32B-1-304(7)(a):

1893 (i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i) or
1894 (ii); or

1895 (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,
1896 a drug, or the combined influence of alcohol and a drug; and

1897 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
1898 influence of alcohol and a drug within five years before the day on which the person is arrested
1899 on a charge described in Subsection (2)(b)(ii)(A); and

1900 (c) the commission suspending or revoking a resort license because a person to whom
1901 the commission issues a resort license under this chapter no longer possesses the qualifications
1902 required by this title for obtaining the resort license.

1903 (3) This section does not prevent the commission from suspending or revoking a
1904 sublicense that is part of a resort license if a person employed to act in a supervisory or
1905 managerial capacity for a sublicense no longer meets the qualification requirements in the
1906 provisions applicable to the sublicense.

1907 Section 21. Section 32B-8a-102 is amended to read:

1908 **32B-8a-102. Definitions.**

1909 As used in this chapter:

1910 (1) (a) "Alcohol license" means:

1911 [~~(a)~~] (i) a retail license;

1912 [~~(b)~~] (ii) an off-premise beer retailer state license;

1913 [~~(c)~~] (iii) a brewery manufacturing license;

1914 [~~(d)~~] (iv) a distillery manufacturing license;

1915 [~~(e)~~] (v) a winery manufacturing license; and

1916 [~~(f)~~] (vi) a special use permit that is an industrial or manufacturing use permit.

1917 (b) "Alcohol license" does not include a:

1918 (i) master full-service restaurant license;

- 1919 (ii) master limited-service restaurant license; or
1920 (iii) master off-premise beer retailer state license.
- 1921 (2) "Business entity" means a corporation, partnership, limited liability company, sole
1922 proprietorship, or similar entity.
- 1923 (3) "Transfer fee" means a fee described in Section [32B-8a-303](#).
- 1924 (4) "Transferee or buyer" means a person who intends to hold an alcohol license after
1925 the transfer of the alcohol license if the transfer is approved by the commission under this
1926 chapter.
- 1927 (5) "Transferor or seller" means an alcohol licensee who intends to transfer an alcohol
1928 license held by the alcohol licensee if the commission approves the transfer under this chapter.
- 1929 Section 22. Section **32B-8a-201** is amended to read:
- 1930 **32B-8a-201. Transferability of alcohol license.**
- 1931 (1) (a) An alcohol license is separate from other property of an alcohol licensee.
- 1932 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the
1933 existence of any type of alcohol license.
- 1934 (c) Except as provided in this chapter, a person may not:
- 1935 (i) transfer an alcohol license from one location to another location; or
1936 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
1937 alcohol license to another person whether for monetary gain or not.
- 1938 (d) If approved by the commission and subject to the requirements of this chapter, an
1939 alcohol licensee may transfer the alcohol license:
- 1940 (i) from the alcohol licensee to another person, regardless of whether the alcohol
1941 license is for the same premises; and
1942 (ii) from one premises of the alcohol licensee to another premises of the alcohol
1943 licensee.
- 1944 (2) (a) The commission may not approve the transfer of an alcohol license that results
1945 in a transferee or buyer holding a different type of alcohol license than is held by the transferor
1946 or seller.
- 1947 (b) Unless the alcohol license is a bar establishment license, the commission may not
1948 approve the transfer of an alcohol license from one location to another location, if the location
1949 of the premises to which the alcohol license would be transferred is in a different county than

1950 the location of the licensed premises of the alcohol license being transferred.

1951 (3) The commission may not approve the transfer of an alcohol license if the transferee
1952 or buyer:

1953 (a) is not eligible to hold the same type of alcohol license as the alcohol license to be
1954 transferred at the premises to which the alcohol license would be transferred; or

1955 ~~[(b) is delinquent in the payment of any of the following that arises in full or in part out
1956 of the operation of a alcohol license:]~~

1957 ~~[(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or]~~

1958 ~~[(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.]~~

1959 ~~[(4) This chapter does not apply to a:]~~

1960 ~~[(a) master full-service restaurant license;]~~

1961 ~~[(b) master limited-service restaurant license; or]~~

1962 ~~[(c) master off-premise beer retailer state license.]~~

1963 (b) does not attest, subject to the penalty for making a false material statement under
1964 Section 32B-4-504, that the transferee or buyer is in compliance with:

1965 (i) federal tax laws;

1966 (ii) Title 35A, Chapter 4, Employment Security Act; and

1967 (iii) Title 59, Revenue and Taxation.

1968 (4) The commission may not approve the transfer of an alcohol license unless the
1969 transferor or seller attests, subject to the penalty for making a false material statement under
1970 Section 32B-4-504, that the transferor or seller is not delinquent on any lease obligation related
1971 to the licensed premises for the alcohol license the transferor or seller is transferring.

1972 Section 23. Section **32B-8a-202** is amended to read:

1973 **32B-8a-202. Effect of transfer of ownership of business entity.**

1974 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is
1975 acquired by or transferred to one or more persons who did not hold the ownership of 51% of
1976 those shares of stock on the date an alcohol license is issued to the corporation, the corporation
1977 shall comply with this chapter to transfer the alcohol license to the corporation as if the
1978 corporation is newly constituted.

1979 (b) When there is a new general partner or when the ownership of 51% or more of the
1980 capital or profits of a limited partnership is acquired by or transferred to one or more persons as

1981 general or limited partners and who did not hold ownership of 51% or more of the capital or
1982 profits of the limited partnership on the date an alcohol license is issued to the limited
1983 partnership, the limited partnership shall comply with this chapter to transfer the alcohol
1984 license to the limited partnership as if the limited partnership is newly constituted.

1985 (c) When the ownership of 51% or more of the interests in a limited liability company
1986 is acquired by or transferred to one or more persons as members who did not hold ownership of
1987 51% or more of the interests in the limited liability company on the date an alcohol license is
1988 issued to the limited liability company, the limited liability company shall comply with this
1989 chapter to transfer the alcohol license to the limited liability company as if the limited liability
1990 company is newly constituted.

1991 (2) A business entity shall comply with this section within 60 days after the day on
1992 which [~~the event~~] a sale or transfer described in Subsection (1) occurs.

1993 Section 24. Section **32B-8a-203** is amended to read:

1994 **32B-8a-203. Operational requirements for transferee or buyer.**

1995 (1) (a) A transferee or buyer shall begin operations of the alcohol license within 30
1996 days after the day on which a transfer is approved by the commission, except that:

1997 (i) the department may grant an extension of this time period not to exceed 30 days;
1998 and

1999 (ii) after the extension is authorized by the department under Subsection (1)(a)(i), the
2000 commission may grant one or more additional extensions not to exceed, in the aggregate, seven
2001 months from the day on which the commission approves the transfer, if the transferee or buyer
2002 can demonstrate to the commission that the transferee or buyer:

2003 (A) cannot begin operations because the transferee or buyer is improving the licensed
2004 premises;

2005 (B) has obtained a building permit for the improvements described in Subsection
2006 (1)(a)(ii)(A), if the respective local government entity requires a building permit for the
2007 improvements; and

2008 (C) is working expeditiously to complete the improvements to the licensed premises.

2009 (b) A transferee or buyer is considered to have begun operations of the alcohol license
2010 if the transferee or buyer:

2011 (i) has a licensed premises that is open for business;

2012 (ii) (A) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed
2013 premises described in Subsection (1)(b)(i);

2014 (B) manufactures an alcoholic product on the licensed premises described in
2015 Subsection (1)(b)(i); or

2016 (C) engages in an industrial or manufacturing pursuit containing alcohol on the
2017 licensed premises described in Subsection (1)(b)(i); and

2018 (iii) has a valid business license.

2019 (2) If a transferee or buyer fails to begin operations of the alcohol license within the
2020 time period required by Subsection (1), the following are automatically forfeited effective
2021 immediately:

2022 (a) the alcohol license; and

2023 (b) the alcohol license fee.

2024 (3) A transferee or buyer shall begin operations of the alcohol license at the location to
2025 which the transfer applies before the transferee or buyer may seek a transfer of the alcohol
2026 license to a different location.

2027 (4) Notwithstanding Subsection (1), the commission may not issue a conditional
2028 license unless the requirements of Section 32B-5-205 are met, except that the time periods
2029 required by this section supersede the time period provided in Section 32B-5-205.

2030 Section 25. Section 32B-8a-302 is amended to read:

2031 **32B-8a-302. Application -- Approval process.**

2032 (1) To obtain the transfer of an alcohol license from an alcohol licensee, the transferee
2033 or buyer shall file a transfer application with the department that includes:

2034 (a) an application in the form provided by the department;

2035 (b) a statement as to whether the consideration, if any, to be paid to the transferor or
2036 seller includes payment for transfer of the alcohol license; and

2037 [~~(c)~~] ~~a statement executed under penalty of perjury that the consideration as set forth in~~
2038 ~~the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder;~~
2039 ~~and]~~

2040 [~~(d)~~] (c) (i) an application fee of \$300; and

2041 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

2042 [~~(2) If the intended transfer of an alcohol license involves consideration, at least 10~~

2043 days before the commission may approve the transfer, the department shall post a notice of the
 2044 intended transfer on the Public Notice Website created in Section ~~63F-1-701~~ that states the
 2045 following:]

2046 ~~[(a) the name of the transferor;]~~

2047 ~~[(b) the name and address of the business currently associated with the alcohol
 2048 license;]~~

2049 ~~[(c) instructions for filing a claim with the escrow holder; and]~~

2050 ~~[(d) the projected date that the commission may consider the transfer application.]~~

2051 ~~[(3)]~~ (2) (a) (i) Before the commission may approve the transfer of an alcohol license,
 2052 the department shall conduct an investigation and may hold public hearings to gather
 2053 information and make recommendations to the commission as to whether the transfer of the
 2054 alcohol license should be approved.

2055 (ii) The department shall forward the information and recommendations described in
 2056 this Subsection ~~[(3)(a)]~~ (2)(a) to the commission to aid in the commission's determination.

2057 (b) Before approving a transfer, the commission shall:

2058 (i) determine that the transferee or buyer filed a complete application;

2059 (ii) determine that the transferee or buyer is eligible to hold the type of alcohol license
 2060 that is to be transferred at the premises to which the alcohol license would be transferred;

2061 (iii) determine that the transferee ~~[is not delinquent in the payment of an amount
 2062 described in]~~ or buyer has made the attestation described in Subsection ~~32B-8a-201~~(3);

2063 (iv) determine that the transferee is not disqualified under Section ~~32B-1-304~~;

2064 (v) consider the locality within which the proposed licensed premises is located,
 2065 including:

2066 (A) the factors listed in Section ~~32B-5-203~~ for the issuance of a retail license;

2067 (B) the factors listed in Section ~~32B-7-404~~ for the issuance of an off-premise beer
 2068 retailer state license;

2069 (C) the factors listed in Section ~~32B-11-206~~ for the issuance of a manufacturing
 2070 license; and

2071 (D) the factors listed in Section ~~32B-10-204~~ for the issuance of a special use permit
 2072 that is an industrial and manufacturing use permit;

2073 (vi) consider the ~~[transferee's]~~ transferee or buyer's ability to manage and operate the

2074 retail license to be transferred, including:

2075 (A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

2076 (B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer
2077 retailer state license;

2078 (C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing
2079 license; and

2080 (D) the factors listed in Section 32B-10-204 for the issuance of a special use permit
2081 that is an industrial and manufacturing use permit;

2082 (vii) consider the nature or type of alcohol licensee operation of the transferee or buyer,
2083 including:

2084 (A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

2085 (B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer
2086 retailer state license;

2087 (C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing
2088 license; and

2089 (D) the factors listed in Section 32B-10-204 for the issuance of a special use permit
2090 that is an industrial and manufacturing use permit; and

2091 [~~(viii) if the transfer involves consideration, determine that the transferee and transferor~~
2092 ~~have complied with Part 4, Protection of Creditors; and]~~

2093 [(ix)] (viii) consider any other factor the commission considers necessary.

2094 [(4)] (3) Except as otherwise provided in Section 32B-1-202, the commission may not
2095 approve the transfer of an alcohol license to premises that do not meet the proximity
2096 requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as
2097 applicable.

2098 Section 26. Section 32B-8a-303 is amended to read:

2099 **32B-8a-303. Transfer fees.**

2100 (1) Except as otherwise provided in this section, the department shall charge the
2101 following transfer fees:

2102 (a) for a transfer of an alcohol license from an alcohol licensee to another person, the
2103 transfer fee equals the initial license fee amount specified in the relevant chapter or part for the
2104 type of alcohol license that is being transferred;

2105 (b) for the transfer of an alcohol license from one premises to another premises of the
2106 same alcohol licensee, the transfer fee [~~equals the renewal fee amount specified in the relevant~~
2107 ~~chapter or part for the type of alcohol license that is being transferred~~] is \$300;

2108 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section
2109 [32B-8a-202](#), the transfer fee equals the renewal fee amount specified in the relevant chapter or
2110 part for the type of alcohol license that is being transferred;

2111 (d) for a transfer of an alcohol license to include the parent or adult child of an alcohol
2112 licensee, when no consideration is given for the transfer, the transfer fee is one-half of the
2113 amount described in Subsection (1)(a); and

2114 (e) for one of the following transfers, the transfer fee is one-half of the amount
2115 described in Subsection (1)(a):

2116 (i) an alcohol license of one spouse to the other spouse when the transfer application is
2117 made before the entry of a final decree of divorce;

2118 (ii) an alcohol license of a deceased alcohol licensee to:

2119 (A) the one or more surviving partners of the deceased alcohol licensee;

2120 (B) the executor, administrator, or conservator of the estate of the deceased alcohol
2121 licensee; or

2122 (C) the surviving spouse of the deceased alcohol licensee, if the deceased alcohol
2123 licensee leaves no estate to be administered;

2124 (iii) an alcohol license of an incompetent person or conservatee by or to the
2125 conservator or guardian for the incompetent person or conservatee who is the alcohol licensee;

2126 (iv) an alcohol license of a debtor in a bankruptcy case by or to the trustee of a
2127 bankrupt estate of the alcohol licensee;

2128 (v) an alcohol license of a person for whose estate a receiver is appointed may be
2129 transferred by or to a receiver of the estate of the alcohol licensee;

2130 (vi) an alcohol license of an assignor for the benefit of creditors by or to an assignee for
2131 the benefit of creditors of a licensee with the consent of the assignor;

2132 (vii) an alcohol license transferred to a revocable living trust if the alcohol licensee is
2133 the trustee of the revocable living trust;

2134 (viii) an alcohol license transferred between partners when no new partner is being
2135 licensed;

2136 (ix) an alcohol license transferred between corporations whose outstanding shares of
2137 stock are owned by the same individuals;

2138 (x) upon compliance with Section 32B-8a-202, an alcohol license to a corporation
2139 whose entire stock is owned by:

2140 (A) the transferor or seller; or

2141 (B) the spouse of the transferor;

2142 (xi) upon compliance with Section 32B-8a-202, an alcohol license to a limited liability
2143 company whose entire membership consists of:

2144 (A) the transferor or seller; or

2145 (B) the spouse of the transferor or seller; or

2146 (xii) an alcohol license transferred from a corporation to a person who owns, or whose
2147 spouse owns, the entire stock of the corporation.

2148 (2) If there are multiple and simultaneous transfers of alcohol licenses under Section
2149 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the alcohol
2150 licenses being transferred.

2151 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under
2152 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the
2153 subsequent transfer is of 51% of the stock in a corporation to which an alcohol license is
2154 transferred by an alcohol licensee or the spouse of an alcohol licensee.

2155 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's
2156 adult child or adult grandchild, the transfer fee is one-half of the amount described in
2157 Subsection (1)(a).

2158 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.
2159 Section 27. Section 32B-8a-501 is amended to read:

2160 **32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

2161 (1) An alcohol licensee may not enter into any agreement under which the alcohol
2162 licensee pledges the alcohol license as security for a loan or as security for the fulfillment of
2163 any agreement.

2164 (2) An alcohol licensee may not transfer an alcohol license if the transfer is to:

2165 (a) satisfy a loan or to fulfill an agreement entered into more than 90 days before the
2166 day on which the transfer application is filed;

2167 (b) gain or establish a preference to or for any creditor of the transferor or seller, except
2168 as provided by Section 32B-8a-202; or

2169 (c) defraud or injure a creditor of the transferor or seller.

2170 (3) An alcohol licensee may not transfer a bar establishment license in a manner that
2171 circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).

2172 (4) An alcohol licensee may not transfer an alcohol license except in accordance with
2173 this chapter.

2174 Section 28. Section 32B-8d-104 is amended to read:

2175 **32B-8d-104. General operational requirements for a sublicense.**

2176 (1) Except as provided in Subsections (2) [~~and (3)~~] through (4), a person operating
2177 under a sublicense is subject to the operational requirements under the provisions applicable to
2178 the sublicense.

2179 (2) Notwithstanding a requirement in the provisions applicable to the sublicense, a
2180 person operating under the sublicense is not subject to a requirement that a certain percentage
2181 of the gross receipts for the sublicense be from the sale of food, except to the extent that the
2182 gross receipts for the sublicense are included in calculating the percentages under Subsections
2183 32B-8-401(3), 32B-8b-301(5), and 32B-8c-301(3).

2184 (3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a
2185 sublicensed premises operated under a full-service restaurant sublicense or a limited-service
2186 restaurant sublicense is considered a grandfathered bar structure if the sublicense is a
2187 sublicense to a resort license issued on or before December 31, 2010.

2188 (4) Notwithstanding Section 32B-5-307:

2189 (a) a patron may transport beer between the sublicensed premises of an arena licensee's
2190 accompanying sublicenses, if the patron transports the beer from and to an area of each
2191 sublicensed premises:

2192 (i) that is adjacent to the other; and

2193 (ii) where the consumption of beer is permitted; and

2194 (b) staff of a sublicensee or person otherwise operating under a sublicense of a hotel
2195 licensee may transport an alcoholic beverage from and to sublicensed premises of the hotel
2196 license, if:

2197 (i) the sublicensee is a:

- 2198 (A) full-service restaurant sublicensees;
- 2199 (B) limited-service restaurant sublicensees;
- 2200 (C) beer-only restaurant sublicensees; or
- 2201 (D) bar establishment sublicensees;
- 2202 (ii) the individual staff carries the alcoholic beverage:
- 2203 (A) from the sublicensee's sublicensed premises or from the sublicensed premises of a
- 2204 bar establishment sublicensee;
- 2205 (B) briefly through an unlicensed area or briefly through sublicensed premises on
- 2206 which the type of alcoholic beverage that the individual staff carries is permitted; and
- 2207 (C) to the sublicensee's sublicensed premises; and
- 2208 (iii) the individual staff at all times stays within the boundary of the hotel, as defined in
- 2209 Section [32B-8b-102](#).

2210 ~~[(4)]~~ (5) Except as provided in Section [32B-8-502](#), for purposes of interpreting an
 2211 operational requirement imposed by the provisions applicable to a sublicense:

- 2212 (a) a requirement imposed on a sublicensee or person operating under a sublicense
- 2213 applies to the principal licensee; and
- 2214 (b) a requirement imposed on staff of a sublicensee or person operating under a
- 2215 sublicense applies to staff of the principal licensee.

2216 Section 29. Section **32B-11-202** is amended to read:

2217 **32B-11-202. Exemption for manufacture of fermented beverage.**

2218 (1) As used in this section, "fermented alcoholic beverage" means:

- 2219 (a) beer;
- 2220 (b) heavy beer; or
- 2221 (c) wine.

2222 (2) An individual may without being licensed under this chapter manufacture ~~[in the~~
 2223 ~~individual's personal residence]~~ a fermented alcoholic beverage if:

- 2224 (a) the individual ferments the alcoholic beverage:
- 2225 (i) in the individual's personal residence; or
- 2226 (ii) (A) on the premises of a winery manufacturing license or brewery manufacturing
- 2227 license; and
- 2228 (B) under the supervision of a winery manufacturing licensee or brewery

2229 manufacturing licensee;

2230 (b) the individual is 21 years [~~of age~~] old or older;

2231 [~~(b)~~] (c) the individual manufactures no more than:

2232 (i) 100 gallons in a calendar year, if there is one individual that is 21 years [~~of age~~] old

2233 or older residing in the household; or

2234 (ii) 200 gallons in a calendar year, if there are two or more individuals who are 21

2235 years [~~of age~~] old or older residing in the household;

2236 [~~(c)~~] (d) the fermented alcoholic beverage is manufactured and used for personal or

2237 family use and consumption, including use at an organized event where fermented alcoholic

2238 beverages are judged as to taste and quality; and

2239 [~~(d)~~] (e) the fermented alcoholic beverage is not for:

2240 (i) sale or offering for sale; or

2241 (ii) consumption on a licensed premise.

2242 (3) An individual may store a fermented alcoholic beverage manufactured as provided

2243 in Subsection (2) in the individual's personal residence.

2244 (4) A fermented alcoholic beverage manufactured in accordance with Subsection (2)

2245 may be removed from the premises where it is manufactured:

2246 (a) for personal or family use, including use at an organized event where fermented

2247 alcoholic beverages are judged as to taste and quality;

2248 (b) if the fermented alcoholic beverage is transported in compliance with Section

2249 [41-6a-526](#); and

2250 (c) if the fermented alcoholic beverage is removed only in the following quantities:

2251 (i) for personal and family use that is unrelated to an organized event where fermented

2252 alcoholic beverages are judged as to taste and quality, the quantity that may be possessed at one

2253 time is:

2254 (A) one liter of wine for each individual who is 21 years [~~of age~~] old or older residing

2255 in the household;

2256 (B) 72 ounces of heavy beer for each individual who is 21 years [~~of age~~] old or older

2257 residing in the household; or

2258 (C) 72 ounces of beer for each individual who is 21 years [~~of age~~] old or older residing

2259 in the household; and

2260 (ii) for on-premise consumption at an organized event where fermented alcoholic
2261 beverages are judged as to taste and quality, the quantity that may be removed for each
2262 organized event is:

2263 (A) one liter of wine for each wine category in which the individual enters, except that
2264 the individual may not remove wine for more than three categories for the same organized
2265 event;

2266 (B) 72 ounces of heavy beer for each heavy beer category in which the individual
2267 enters, except that the individual may not remove heavy beer for more than three categories for
2268 the same organized event; or

2269 (C) 72 ounces of beer for each beer category in which the individual enters, except that
2270 the individual may not remove beer for more than three categories for the same organized
2271 event.

2272 (5) A partnership, corporation, or association may not manufacture a fermented
2273 alcoholic beverage under this section for personal or family use and consumption without
2274 obtaining a license under this chapter, except that an individual who operates a brewery under
2275 this chapter as an individual owner or in partnership with others, may remove beer from the
2276 brewery for personal or family use in the amounts described in Subsection (2)~~(b)~~(c).

2277 Section 30. Section **32B-12-205** is amended to read:

2278 **32B-12-205. Duties of commission and department before issuing liquor**
2279 **warehousing license.**

2280 (1) (a) Before the commission may issue a warehousing license or approve a change of
2281 location for a licensee's warehouse facility, the department shall conduct an investigation and
2282 may hold public hearings to gather information and make recommendations to the commission
2283 as to whether a liquor warehousing license should be issued or a change of location granted.

2284 (b) The department shall forward the information and recommendations described in
2285 Subsection (1)(a) to the commission to aid in the commission's determination.

2286 (2) Before issuing a liquor warehousing license, the commission shall:

2287 (a) determine that the person filed a complete application and has complied with
2288 Sections **32B-12-202** and **32B-12-204**;

2289 (b) determine that the person is not disqualified under Section **32B-1-304**;

2290 (c) consider the physical characteristics of the premises where ~~it is proposed that~~

- 2291 ~~liquor be warehoused, such as]~~ the person proposes to warehouse liquor, including:
- 2292 (i) location;
- 2293 (ii) proximity to transportation; and
- 2294 (iii) condition, size, and security of the licensed premises;
- 2295 (d) consider the person's ability to properly use the liquor warehousing license within
- 2296 the requirements of this title and the commission rules including:
- 2297 (i) the types of products other than liquor that the person is warehousing;
- 2298 (ii) the brands of liquor the person intends to warehouse; and
- 2299 (iii) the means the person intends to use to distribute the liquor; and
- 2300 (e) consider any other factor the commission considers necessary.
- 2301 (3) Before approving a liquor warehousing licensee's request to change the location of
- 2302 the licensee's warehouse facility, the commission shall:
- 2303 (a) determine that the licensee filed a complete change of location application;
- 2304 (b) consider the physical characteristics of the premises where the licensee proposes to
- 2305 warehouse liquor, including:
- 2306 (i) location;
- 2307 (ii) proximity to transportation; and
- 2308 (iii) condition, size, and security of the licensed premises; and
- 2309 (c) consider any other factor the commission considers necessary.
- 2310 Section 31. Section **32B-12-207** is enacted to read:
- 2311 **32B-12-207. Changing location of a warehousing facility.**
- 2312 (1) A liquor warehousing licensee may change the location of the licensee's
- 2313 warehousing facility, if the licensee:
- 2314 (a) submits to the department:
- 2315 (i) a completed change of location application in a form prescribed by the department;
- 2316 (ii) a nonrefundable \$300 application fee;
- 2317 (iii) written consent of the local authority;
- 2318 (iv) a floor plan of the licensee's proposed new warehouse, including the area in which
- 2319 the licensee proposes to store liquor; and
- 2320 (v) any other information the commission or department may require; and
- 2321 (b) begins operation at the new facility within 30 days after the day on which the

2322 commission approves the requested change in location.

2323 Section 32. Section **63G-4-102** is amended to read:

2324 **63G-4-102. Scope and applicability of chapter.**

2325 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
2326 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
2327 this chapter apply to every agency of the state and govern:

2328 (a) state agency action that determines the legal rights, duties, privileges, immunities,
2329 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,
2330 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

2331 (b) judicial review of the action.

2332 (2) This chapter does not govern:

2333 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

2334 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to
2335 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
2336 issuance of a tax assessment, except that this chapter governs an agency action commenced by
2337 a taxpayer or by another person authorized by law to contest the validity or correctness of the
2338 action;

2339 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
2340 commutation or termination of a sentence, or to the rescission, termination, or revocation of
2341 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
2342 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah
2343 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
2344 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or
2345 judicial review of the action;

2346 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
2347 student or teacher in a school or educational institution, or judicial review of the action;

2348 (e) an application for employment and internal personnel action within an agency
2349 concerning its own employees, or judicial review of the action;

2350 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
2351 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that
2352 this chapter governs an agency action commenced by the employer, licensee, or other person

2353 authorized by law to contest the validity or correctness of the citation or assessment;

2354 (g) state agency action relating to management of state funds, the management and
2355 disposal of school and institutional trust land assets, and contracts for the purchase or sale of
2356 products, real property, supplies, goods, or services by or for the state, or by or for an agency of
2357 the state, except as provided in those contracts, or judicial review of the action;

2358 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
2359 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution
2360 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or
2361 Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or
2362 judicial review of the action;

2363 (i) the initial determination of a person's eligibility for unemployment benefits, the
2364 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'
2365 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial
2366 determination of a person's unemployment tax liability;

2367 (j) state agency action relating to the distribution or award of a monetary grant to or
2368 between governmental units, or for research, development, or the arts, or judicial review of the
2369 action;

2370 (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah
2371 Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19,
2372 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
2373 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,
2374 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used
2375 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except
2376 that this chapter governs an agency action commenced by a person authorized by law to contest
2377 the validity or correctness of the notice or order;

2378 (l) state agency action, to the extent required by federal statute or regulation, to be
2379 conducted according to federal procedures;

2380 (m) the initial determination of a person's eligibility for government or public
2381 assistance benefits;

2382 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
2383 registration;

- 2384 (o) a license for use of state recreational facilities;
- 2385 (p) state agency action under Title 63G, Chapter 2, Government Records Access and
2386 Management Act, except as provided in Section [63G-2-603](#);
- 2387 (q) state agency action relating to the collection of water commissioner fees and
2388 delinquency penalties, or judicial review of the action;
- 2389 (r) state agency action relating to the installation, maintenance, and repair of headgates,
2390 caps, valves, or other water controlling works and weirs, flumes, meters, or other water
2391 measuring devices, or judicial review of the action;
- 2392 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);
- 2393 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and
2394 (ii) an action taken by the Division of Securities under a hearing conducted under
2395 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange
2396 of securities described in Subsection [61-1-11.1\(1\)](#);
- 2397 (u) state agency action relating to water well driller licenses, water well drilling
2398 permits, water well driller registration, or water well drilling construction standards, or judicial
2399 review of the action;
- 2400 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
2401 Antidiscrimination Act; [~~or~~]
- 2402 (w) state environmental studies and related decisions by the Department of
2403 Transportation approving state or locally funded projects, or judicial review of the action[~~:~~]; or
2404 (x) the suspension of operations under Subsection [32B-1-304\(3\)](#).
- 2405 (3) This chapter does not affect a legal remedy otherwise available to:
2406 (a) compel an agency to take action; or
2407 (b) challenge an agency's rule.
- 2408 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
2409 proceeding, or the presiding officer during an adjudicative proceeding from:
2410 (a) requesting or ordering a conference with parties and interested persons to:
2411 (i) encourage settlement;
2412 (ii) clarify the issues;
2413 (iii) simplify the evidence;
2414 (iv) facilitate discovery; or

- 2415 (v) expedite the proceeding; or
- 2416 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
- 2417 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,
- 2418 except to the extent that the requirements of those rules are modified by this chapter.
- 2419 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
- 2420 this chapter, except as explicitly provided in that section.
- 2421 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
- 2422 governed by this chapter.
- 2423 (6) This chapter does not preclude an agency from enacting a rule affecting or
- 2424 governing an adjudicative proceeding or from following the rule, if the rule is enacted
- 2425 according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking
- 2426 Act, and if the rule conforms to the requirements of this chapter.
- 2427 (7) (a) If the attorney general issues a written determination that a provision of this
- 2428 chapter would result in the denial of funds or services to an agency of the state from the federal
- 2429 government, the applicability of the provision to that agency shall be suspended to the extent
- 2430 necessary to prevent the denial.
- 2431 (b) The attorney general shall report the suspension to the Legislature at its next
- 2432 session.
- 2433 (8) Nothing in this chapter may be interpreted to provide an independent basis for
- 2434 jurisdiction to review final agency action.
- 2435 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good
- 2436 cause shown, from lengthening or shortening a time period prescribed in this chapter, except
- 2437 the time period established for judicial review.
- 2438 (10) Notwithstanding any other provision of this section, this chapter does not apply to
- 2439 a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
- 2440 expressly provided in Section 19-1-301.5.
- 2441 (11) Subsection (2)(w), regarding action taken based on state environmental studies
- 2442 and policies of the Department of Transportation, applies to any claim for which a court of
- 2443 competent jurisdiction has not issued a final unappealable judgment or order before May 14,
- 2444 2019.
- 2445 Section 33. Section 63I-2-232 is amended to read:

2446 **63I-2-232. Repeal dates -- Title 32B.**2447 (1) Subsection [32B-1-102\(9\)](#) is repealed July 1, 2022.2448 (2) Subsection [32B-1-407\(3\)\(d\)](#) is repealed July 1, 2022.2449 [~~(3) Section [32B-2-211.1](#) is repealed November 1, 2020.~~]2450 [~~(4) Subsection [32B-5-202\(4\)](#), which addresses license renewal during 2020, is
2451 repealed January 1, 2021.~~]2452 [~~(5)~~ (3) Subsections [32B-6-202\(3\)](#) and (4) are repealed July 1, 2022.2453 [~~(6)~~ (4) Section [32B-6-205](#) is repealed July 1, 2022.2454 [~~(7)~~ (5) Subsection [32B-6-205.2\(16\)](#) is repealed July 1, 2022.2455 [~~(8)~~ (6) Section [32B-6-205.3](#) is repealed July 1, 2022.2456 [~~(9)~~ (7) Subsections [32B-6-302\(3\)](#) and (4) are repealed July 1, 2022.2457 [~~(10)~~ (8) Section [32B-6-305](#) is repealed July 1, 2022.2458 [~~(11)~~ (9) Subsection [32B-6-305.2\(15\)](#) is repealed July 1, 2022.2459 [~~(12)~~ (10) Section [32B-6-305.3](#) is repealed July 1, 2022.2460 [~~(13)~~ (11) Section [32B-6-404.1](#) is repealed July 1, 2022.2461 [~~(14)~~ (12) Section [32B-6-409](#) is repealed July 1, 2022.2462 [~~(15)~~ (13) Subsection [32B-6-703\(2\)\(e\)\(iv\)](#) is repealed July 1, 2022.2463 [~~(16)~~ (14) Subsections [32B-6-902\(1\)\(c\)](#), (1)(d), and (2) are repealed July 1, 2022.2464 [~~(17)~~ (15) Section [32B-6-905](#) is repealed July 1, 2022.2465 [~~(18)~~ (16) Subsection [32B-6-905.1\(15\)](#) is repealed July 1, 2022.2466 [~~(19)~~ (17) Section [32B-6-905.2](#) is repealed July 1, 2022.2467 [~~(20)~~ (18) Subsection [32B-8d-104\(3\)](#) is repealed July 1, 2022.2468 Section 34. Section **77-39-101** is amended to read:2469 **77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette
2470 products, and nicotine products to underage individuals.**

2471 (1) As used in this section:

2472 (a) "Electronic cigarette product" means the same as that term is defined in Section
2473 [76-10-101](#).2474 (b) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).2475 (c) "Peace officer" means the same as the term is described in Section [53-13-109](#).2476 [~~(e)~~ (d) "Tobacco product" means the same as that term is defined in Section

2477 76-10-101.

2478 (2) (a) A peace officer~~[-as defined by Title 53, Chapter 13, Peace Officer~~
2479 ~~Classifications,]~~ may investigate the possible violation of:

2480 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and
2481 attempt to purchase or make a purchase of alcohol from a retail establishment; or

2482 (ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and
2483 attempt to purchase or make a purchase from a retail establishment of:

2484 (A) a tobacco product;

2485 (B) an electronic cigarette product; or

2486 (C) a nicotine product.

2487 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2488 supervise, and monitor the individual requested to make the purchase.

2489 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2490 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2491 establishment that the attempted purchaser was under the legal age to purchase:

2492 (i) alcohol; or

2493 (ii) (A) a tobacco product;

2494 (B) an electronic cigarette product; or

2495 (C) a nicotine product.

2496 (d) If a citation or information is issued, the citation or information shall be issued
2497 within seven days ~~[of the purchase]~~ after the day on which the purchase occurs.

2498 (3) (a) If an individual under 18 years old is requested to attempt a purchase, a written
2499 consent of that individual's parent or guardian shall be obtained ~~[prior to that individual~~
2500 ~~participating]~~ before the individual participates in any attempted purchase.

2501 (b) An individual requested by the peace officer to attempt a purchase may:

2502 (i) be a trained volunteer; or

2503 (ii) receive payment, but may not be paid based on the number of successful purchases
2504 of alcohol, tobacco products, electronic cigarette products, or nicotine products.

2505 (4) The individual requested by the peace officer to attempt a purchase and anyone
2506 accompanying the individual attempting a purchase ~~[may not during the attempted purchase~~
2507 ~~misrepresent the age of the individual by false or misleading identification documentation in~~

2508 ~~attempting the purchase.]~~ may use false identification in attempting the purchase if:

2509 (a) the false identification:

2510 (i) accurately represents the individual's age; and

2511 (ii) displays a current photo of the individual; and

2512 (b) the peace officer maintains possession of the false identification at all times outside
2513 the attempt to purchase.

2514 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2515 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2516 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, or a
2517 nicotine product if a peace officer directs, supervises, and monitors the individual.

2518 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2519 shall be conducted within a 12-month period:

2520 (i) on a random basis at any one retail establishment location, not more often than four
2521 times for the attempted purchase of alcohol; and

2522 (ii) a minimum of two times at a retail establishment that sells tobacco products,
2523 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco
2524 product, an electronic cigarette product, or a nicotine product.

2525 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
2526 tobacco product, an electronic cigarette product, or a nicotine product under this section if:

2527 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
2528 tobacco product, an electronic cigarette product, or a nicotine product to an individual under
2529 the age established by Section [32B-4-403](#) or [76-10-114](#); and

2530 (ii) the supervising peace officer makes a written record of the grounds for the
2531 reasonable suspicion.

2532 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
2533 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
2534 was made.

2535 (b) The report required by this Subsection (7) shall include:

2536 (i) the name of the supervising peace officer;

2537 (ii) the name of the individual attempting the purchase;

2538 (iii) a photograph of the individual attempting the purchase showing how that

2539 individual appeared at the time of the attempted purchase;

2540 (iv) the name and description of the cashier or proprietor from whom the individual

2541 attempted the purchase;

2542 (v) the name and address of the retail establishment; and

2543 (vi) the date and time of the attempted purchase.

2544 Section 35. **Repealer.**

2545 This bill repeals:

2546 Section **32B-8a-401, Notification of creditors -- Escrow -- Priority of payments.**

2547 Section **32B-8a-402, Duties of escrow holder.**

2548 Section **32B-8a-404, When escrow not required.**