

Representative Timothy D. Hawkes proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Jerry W. Stevenson

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";
- ▶ defines "controlled group of breweries";
- ▶ 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 provisions regarding reduced markups for certain manufacturers;
- ▶ 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

2nd Sub. H.B. 371



- 26 minor or to an intoxicated person;
- 27 ▶ enacts provisions related to late applications for retail license renewal;
- 28 ▶ amends provisions related to a conditional retail license;
- 29 ▶ amends provisions related to bringing an alcoholic product on or carrying an
- 30 alcoholic product from licensed premises;
- 31 ▶ requires a retail licensee to notify the department within 60 days of certain changes;
- 32 ▶ amends operational requirements for an on-premise banquet license;
- 33 ▶ amends provisions related to an on-premise beer retailer license;
- 34 ▶ requires the commission to approve an additional location for a hospitality amenity
- 35 licensee;
- 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 to a hotel or resort
- 45 regarding bringing an alcoholic product onto and carrying an alcoholic product from
- 46 the licensed premises;
- 47 ▶ allows certain actions without a manufacturing license;
- 48 ▶ enacts provisions regarding the department's authority regarding small-brewer
- 49 status;
- 50 ▶ enacts provisions related to a change of location for a warehousing facility;
- 51 ▶ exempts the director's emergency action suspending operations of a package agency,
- 52 licensee, or permittee under certain circumstances from Title 63G, Chapter 4,
- 53 Administrative Procedures Act;
- 54 ▶ amends provisions related to the investigation of sales of alcohol, tobacco products,
- 55 electronic cigarette products, and nicotine products to underage individuals; and
- 56 ▶ makes technical and conforming changes.

57 **Money Appropriated in this Bill:**

58 None

59 **Other Special Clauses:**

60 None

61 **Utah Code Sections Affected:**

62 AMENDS:

63 **32B-1-102**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 3
64 and 4

65 **32B-1-202**, as last amended by Laws of Utah 2020, Chapter 219

66 **32B-1-207**, as last amended by Laws of Utah 2017, Chapter 455

67 **32B-1-304**, as last amended by Laws of Utah 2020, Chapter 219

68 **32B-1-607**, as last amended by Laws of Utah 2020, Chapter 219

69 **32B-2-304**, as last amended by Laws of Utah 2020, Chapters 21 and 178

70 **32B-2-306**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

71 **32B-2-604**, as last amended by Laws of Utah 2011, Chapter 307

72 **32B-2-605**, as last amended by Laws of Utah 2020, Chapter 219

73 **32B-4-403**, as enacted by Laws of Utah 2010, Chapter 276

74 **32B-4-404**, as enacted by Laws of Utah 2010, Chapter 276

75 **32B-5-202**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6

76 **32B-5-205**, as last amended by Laws of Utah 2013, Chapter 349

77 **32B-5-307**, as last amended by Laws of Utah 2020, Chapter 219

78 **32B-5-310**, as last amended by Laws of Utah 2019, Chapter 403

79 **32B-6-605**, as last amended by Laws of Utah 2020, Chapter 219

80 **32B-6-703**, as last amended by Laws of Utah 2019, Chapter 403

81 **32B-6-1004**, as enacted by Laws of Utah 2020, Chapter 219

82 **32B-8-501**, as last amended by Laws of Utah 2020, Chapter 219

83 **32B-8a-102**, as last amended by Laws of Utah 2020, Chapter 219

84 **32B-8a-201**, as last amended by Laws of Utah 2020, Chapter 219

85 **32B-8a-202**, as last amended by Laws of Utah 2020, Chapter 219

86 **32B-8a-203**, as last amended by Laws of Utah 2020, Chapter 219

87 **32B-8a-302**, as last amended by Laws of Utah 2020, Chapter 219

- 88 [32B-8a-303](#), as last amended by Laws of Utah 2020, Chapter 219
- 89 [32B-8a-501](#), as last amended by Laws of Utah 2020, Chapter 219
- 90 [32B-8d-104](#), as enacted by Laws of Utah 2020, Chapter 219
- 91 [32B-11-202](#), as enacted by Laws of Utah 2010, Chapter 276
- 92 [32B-12-205](#), as enacted by Laws of Utah 2010, Chapter 276
- 93 [63G-4-102](#), as last amended by Laws of Utah 2019, Chapter 431
- 94 [63I-2-232](#), as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
- 95 [77-39-101](#), as last amended by Laws of Utah 2020, Chapters 302 and 347

96 ENACTS:

- 97 [32B-1-202.1](#), Utah Code Annotated 1953
- 98 [32B-11-504](#), Utah Code Annotated 1953
- 99 [32B-12-207](#), Utah Code Annotated 1953

100 REPEALS:

- 101 [32B-8a-401](#), as last amended by Laws of Utah 2020, Chapter 219
- 102 [32B-8a-402](#), as last amended by Laws of Utah 2020, Chapter 219
- 103 [32B-8a-404](#), as last amended by Laws of Utah 2020, Chapter 219



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

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

107 **32B-1-102. Definitions.**

108 As used in this title:

- 109 (1) "Airport lounge" means a business location:
 - 110 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - 111 (b) that is located at an international airport.
- 112 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
 - 113 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- 114 (3) "Alcoholic beverage" means the following:
 - 115 (a) beer; or
 - 116 (b) liquor.
- 117 (4) (a) "Alcoholic product" means a product that:
 - 118 (i) contains at least .5% of alcohol by volume; and

119 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
120 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
121 in an amount equal to or greater than .5% of alcohol by volume.

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

123 (c) "Alcoholic product" does not include any of the following common items that
124 otherwise come within the definition of an alcoholic product:

125 (i) except as provided in Subsection (4)(d), an extract;

126 (ii) vinegar;

127 (iii) preserved nonintoxicating cider;

128 (iv) essence;

129 (v) tincture;

130 (vi) food preparation; or

131 (vii) an over-the-counter medicine.

132 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
133 when it is used as a flavoring in the manufacturing of an alcoholic product.

134 (5) "Alcohol training and education seminar" means a seminar that is:

135 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

136 (b) described in Section [62A-15-401](#).

137 (6) "Arena" means an enclosed building:

138 (a) that is managed by:

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

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

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

144 (b) that operates as a venue; and

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

146 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
147 License Act, and Chapter 8c, Arena License Act.

148 (8) "Banquet" means an event:

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

150 (b) that is held at one or more designated locations approved by the commission in or
151 on the premises of:

- 152 (i) a hotel;
- 153 (ii) a resort facility;
- 154 (iii) a sports center;
- 155 (iv) a convention center;
- 156 (v) a performing arts facility; or
- 157 (vi) an arena;

158 (c) for which there is a contract:

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

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

163 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.

164 (9) "Bar structure" means a surface or structure on a licensed premises if on or at any
165 place of the surface or structure an alcoholic product is:

- 166 (a) stored; or
- 167 (b) dispensed.

168 (10) (a) "Bar establishment license" means a license issued in accordance with Chapter
169 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

170 (b) "Bar establishment license" includes:

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

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

177 (12) (a) Subject to Subsection (12)(d), "beer" means a product that:

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

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

- 181 (b) "Beer" may or may not contain hops or other vegetable products.
- 182 (c) "Beer" includes a product that:
 - 183 (i) contains alcohol in the percentages described in Subsection (12)(a); and
 - 184 (ii) is referred to as:
 - 185 (A) beer;
 - 186 (B) ale;
 - 187 (C) porter;
 - 188 (D) stout;
 - 189 (E) lager; or
 - 190 (F) a malt or malted beverage.
 - 191 (d) "Beer" does not include a flavored malt beverage.
 - 192 (13) "Beer-only restaurant license" means a license issued in accordance with Chapter
 - 193 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
 - 194 (14) "Beer retailer" means a business that:
 - 195 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
 - 196 for consumption on or off the business premises; and
 - 197 (b) is licensed as:
 - 198 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
 - 199 Retailer Local Authority; or
 - 200 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
 - 201 Chapter 6, Part 7, On-Premise Beer Retailer License.
 - 202 (15) "Beer wholesaling license" means a license:
 - 203 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - 204 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
 - 205 retail licensees or off-premise beer retailers.
 - 206 (16) "Billboard" means a public display used to advertise, including:
 - 207 (a) a light device;
 - 208 (b) a painting;
 - 209 (c) a drawing;
 - 210 (d) a poster;
 - 211 (e) a sign;

- 212 (f) a signboard; or
- 213 (g) a scoreboard.
- 214 (17) "Brewer" means a person engaged in manufacturing:
- 215 (a) beer;
- 216 (b) heavy beer; or
- 217 (c) a flavored malt beverage.
- 218 (18) "Brewery manufacturing license" means a license issued in accordance with
- 219 Chapter 11, Part 5, Brewery Manufacturing License.
- 220 (19) "Certificate of approval" means a certificate of approval obtained from the
- 221 department under Section [32B-11-201](#).
- 222 (20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 223 a bus company to a group of persons pursuant to a common purpose:
- 224 (a) under a single contract;
- 225 (b) at a fixed charge in accordance with the bus company's tariff; and
- 226 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 227 motor vehicle, and a driver to travel together to one or more specified destinations.
- 228 (21) "Church" means a building:
- 229 (a) set apart for worship;
- 230 (b) in which religious services are held;
- 231 (c) with which clergy is associated; and
- 232 (d) that is tax exempt under the laws of this state.
- 233 (22) "Commission" means the Alcoholic Beverage Control Commission created in
- 234 Section [32B-2-201](#).
- 235 (23) "Commissioner" means a member of the commission.
- 236 (24) "Community location" means:
- 237 (a) a public or private school;
- 238 (b) a church;
- 239 (c) a public library;
- 240 (d) a public playground; or
- 241 (e) a public park.
- 242 (25) "Community location governing authority" means:

243 (a) the governing body of the community location; or
244 (b) if the commission does not know who is the governing body of a community
245 location, a person who appears to the commission to have been given on behalf of the
246 community location the authority to prohibit an activity at the community location.

247 (26) "Container" means a receptacle that contains an alcoholic product, including:
248 (a) a bottle;
249 (b) a vessel; or
250 (c) a similar item.

251 (27) "Controlled group of breweries" means as the commission defines by rule made in
252 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

253 [~~27~~] (28) "Convention center" means a facility that is:
254 (a) in total at least 30,000 square feet; and
255 (b) otherwise defined as a "convention center" by the commission by rule.

256 [~~28~~] (29) (a) "Counter" means a surface or structure in a dining area of a licensed
257 premises where seating is provided to a patron for service of food.
258 (b) "Counter" does not include a dispensing structure.

259 [~~29~~] (30) "Crime involving moral turpitude" is as defined by the commission by rule.

260 [~~30~~] (31) "Department" means the Department of Alcoholic Beverage Control created
261 in Section [32B-2-203](#).

262 [~~31~~] (32) "Department compliance officer" means an individual who is:
263 (a) an auditor or inspector; and
264 (b) employed by the department.

265 [~~32~~] (33) "Department sample" means liquor that is placed in the possession of the
266 department for testing, analysis, and sampling.

267 [~~33~~] (34) "Dining club license" means a license issued in accordance with Chapter 5,
268 Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
269 commission as a dining club license.

270 [~~34~~] (35) "Director," unless the context requires otherwise, means the director of the
271 department.

272 [~~35~~] (36) "Disciplinary proceeding" means an adjudicative proceeding permitted
273 under this title:

274 (a) against a person subject to administrative action; and
275 (b) that is brought on the basis of a violation of this title.
276 [~~36~~] (37) (a) Subject to Subsection [~~36~~] (37)(b), "dispense" means:
277 (i) drawing an alcoholic product; and
278 (ii) using the alcoholic product at the location from which it was drawn to mix or
279 prepare an alcoholic product to be furnished to a patron of the retail licensee.
280 (b) The definition of "dispense" in this Subsection [~~36~~] (37) applies only to:
281 (i) a full-service restaurant license;
282 (ii) a limited-service restaurant license;
283 (iii) a reception center license;
284 (iv) a beer-only restaurant license;
285 (v) a bar license;
286 (vi) an on-premise beer retailer;
287 (vii) an airport lounge license;
288 (viii) an on-premise banquet license; and
289 (ix) a hospitality amenity license.
290 [~~37~~] (38) "Dispensing structure" means a surface or structure on a licensed premises:
291 (a) where an alcoholic product is dispensed; or
292 (b) from which an alcoholic product is served.
293 [~~38~~] (39) "Distillery manufacturing license" means a license issued in accordance
294 with Chapter 11, Part 4, Distillery Manufacturing License.
295 [~~39~~] (40) "Distressed merchandise" means an alcoholic product in the possession of
296 the department that is saleable, but for some reason is unappealing to the public.
297 [~~40~~] (41) "Equity license" means a license issued in accordance with Chapter 5,
298 Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
299 commission as an equity license.
300 [~~41~~] (42) "Event permit" means:
301 (a) a single event permit; or
302 (b) a temporary beer event permit.
303 [~~42~~] (43) "Exempt license" means a license exempt under Section 32B-1-201 from
304 being considered in determining the total number of retail licenses that the commission may

305 issue at any time.

306 ~~[(43)]~~ (44) (a) "Flavored malt beverage" means a beverage:

307 (i) that contains at least .5% alcohol by volume;

308 (ii) that is treated by processing, filtration, or another method of manufacture that is not
309 generally recognized as a traditional process in the production of a beer as described in 27
310 C.F.R. Sec. 25.55;

311 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
312 extract; and

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

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

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

317 ~~[(44)]~~ (45) "Fraternal license" means a license issued in accordance with Chapter 5,
318 Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
319 commission as a fraternal license.

320 ~~[(45)]~~ (46) "Full-service restaurant license" means a license issued in accordance with
321 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

322 ~~[(46)]~~ (47) (a) "Furnish" means by any means to provide with, supply, or give an
323 individual an alcoholic product, by sale or otherwise.

324 (b) "Furnish" includes to:

325 (i) serve;

326 (ii) deliver; or

327 (iii) otherwise make available.

328 ~~[(47)]~~ (48) "Guest" means an individual who meets the requirements of Subsection
329 [32B-6-407\(9\)](#).

330 ~~[(48)]~~ (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

331 ~~[(49)]~~ (50) "Health care practitioner" means:

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

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

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

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

336 Act;

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

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

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

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

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

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

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

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

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

353 [~~(50)~~] (51) (a) "Heavy beer" means a product that:

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

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

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

357 [~~(51)~~] (52) "Hospitality amenity license" means a license issued in accordance with
358 Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

359 [~~(52)~~] (53) (a) "Hotel" means a commercial lodging establishment that:

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

362 [~~(b)~~] (ii) is capable of hosting conventions, conferences, and food and beverage
363 functions under a banquet contract; and

364 [~~(c)~~-(i)] (iii) (A) has adequate kitchen or culinary facilities on the premises to provide
365 complete meals; [~~or~~]

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

367 dining rooms that can be reserved for private use under a banquet contract and can
368 accommodate at least 75 individuals; or

369 ~~[(B)]~~ (C) if the establishment is located in a small or unincorporated locality, has an
370 appropriate amount of function space consisting of meeting or dining rooms that can be
371 reserved for private use under a banquet contract, as determined by the commission.

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

373 (i) meets the requirements under Subsection (53)(a); and

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

375 ~~[(53)]~~ (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail
376 License Act, and Chapter 8b, Hotel License Act.

377 ~~[(54)]~~ (55) "Identification card" means an identification card issued under Title 53,
378 Chapter 3, Part 8, Identification Card Act.

379 ~~[(55)]~~ (56) "Industry representative" means an individual who is compensated by
380 salary, commission, or other means for representing and selling an alcoholic product of a
381 manufacturer, supplier, or importer of liquor.

382 ~~[(56)]~~ (57) "Industry representative sample" means liquor that is placed in the
383 possession of the department for testing, analysis, and sampling by a local industry
384 representative on the premises of the department to educate the local industry representative of
385 the quality and characteristics of the product.

386 ~~[(57)]~~ (58) "Interdicted person" means a person to whom the sale, offer for sale, or
387 furnishing of an alcoholic product is prohibited by:

388 (a) law; or

389 (b) court order.

390 ~~[(58)]~~ (59) "International airport" means an airport:

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

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

394 ~~[(59)]~~ (60) "Intoxicated" means that a person:

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

397 (i) an alcoholic product;

- 398 (ii) a controlled substance;
- 399 (iii) a substance having the property of releasing toxic vapors; or
- 400 (iv) a combination of Subsections [~~(59)~~] (60)(a)(i) through (iii); and
- 401 (b) exhibits plain and easily observed outward manifestations of behavior or physical
- 402 signs produced by the overconsumption of an alcoholic product.

403 [~~(60)~~] (61) "Investigator" means an individual who is:

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

406 [~~(61)~~] (62) "License" means:

- 407 (a) a retail license;
- 408 (b) a sublicense;
- 409 (c) a license issued in accordance with Chapter 11, Manufacturing and Related
- 410 Licenses Act;

411 (d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

412 (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

413 (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

414 [~~(62)~~] (63) "Licensee" means a person who holds a license.

415 [~~(63)~~] (64) "Limited-service restaurant license" means a license issued in accordance

416 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

417 [~~(64)~~] (65) "Limousine" means a motor vehicle licensed by the state or a local

418 authority, other than a bus or taxicab:

419 (a) in which the driver and a passenger are separated by a partition, glass, or other

420 barrier;

421 (b) that is provided by a business entity to one or more individuals at a fixed charge in

422 accordance with the business entity's tariff; and

423 (c) to give the one or more individuals the exclusive use of the limousine and a driver

424 to travel to one or more specified destinations.

425 [~~(65)~~] (66) (a) (i) "Liquor" means a liquid that:

426 (A) is:

427 (I) alcohol;

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

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

430 (IV) other drink or drinkable liquid; and

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

432 (II) is suitable to use for beverage purposes.

433 (ii) "Liquor" includes:

434 (A) heavy beer;

435 (B) wine; and

436 (C) a flavored malt beverage.

437 (b) "Liquor" does not include beer.

438 [~~66~~] (67) "Liquor Control Fund" means the enterprise fund created by Section

439 [32B-2-301](#).

440 [~~67~~] (68) "Liquor transport license" means a license issued in accordance with

441 Chapter 17, Liquor Transport License Act.

442 [~~68~~] (69) "Liquor warehousing license" means a license that is issued:

443 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

444 (b) to a person, other than a licensed manufacturer, who engages in the importation for
445 storage, sale, or distribution of liquor regardless of amount.

446 [~~69~~] (70) "Local authority" means:

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

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

451 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
452 in a project area plan adopted by the Military Installation Development Authority under Title
453 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
454 Development Authority.

455 [~~70~~] (71) "Lounge or bar area" is as defined by rule made by the commission.

456 [~~71~~] (72) "Manufacture" means to distill, brew, rectify, mix, compound, process,
457 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
458 others.

459 [~~72~~] (73) "Member" means an individual who, after paying regular dues, has full

460 privileges in an equity licensee or fraternal licensee.

461 ~~[(73)]~~ (74) (a) "Military installation" means a base, air field, camp, post, station, yard,
462 center, or homeport facility for a ship:

463 (i) (A) under the control of the United States Department of Defense; or

464 (B) of the National Guard;

465 (ii) that is located within the state; and

466 (iii) including a leased facility.

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

468 (i) civil works;

469 (ii) a rivers and harbors project; or

470 (iii) a flood control project.

471 ~~[(74)]~~ (75) "Minibar" means an area of a hotel guest room where one or more alcoholic
472 products are kept and offered for self-service sale or consumption.

473 ~~[(75)]~~ (76) "Minor" means an individual under the age of 21 years.

474 ~~[(76)]~~ (77) "Nondepartment enforcement agency" means an agency that:

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

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

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

478 ~~[(77)]~~ (78) "Nondepartment enforcement officer" means an individual who is:

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

480 (b) employed by a nondepartment enforcement agency.

481 ~~[(78)]~~ (79) (a) "Off-premise beer retailer" means a beer retailer who is:

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

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

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

486 ~~[(79)]~~ (80) "Off-premise beer retailer state license" means a state license issued in
487 accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

488 ~~[(80)]~~ (81) "On-premise banquet license" means a license issued in accordance with
489 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

490 ~~[(81)]~~ (82) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

499 (A) as a tavern; or

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

501 ~~[(82)]~~ (83) "Opaque" means impenetrable to sight.

502 ~~[(83)]~~ (84) "Package agency" means a retail liquor location operated:

503 (a) under an agreement with the department; and

504 (b) by a person:

505 (i) other than the state; and

506 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
507 Agency, to sell packaged liquor for consumption off the premises of the package agency.

508 ~~[(84)]~~ (85) "Package agent" means a person who holds a package agency.

509 ~~[(85)]~~ (86) "Patron" means an individual to whom food, beverages, or services are sold,
510 offered for sale, or furnished, or who consumes an alcoholic product including:

511 (a) a customer;

512 (b) a member;

513 (c) a guest;

514 (d) an attendee of a banquet or event;

515 (e) an individual who receives room service;

516 (f) a resident of a resort; or

517 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
518 license.

519 ~~[(86)]~~ (87) (a) "Performing arts facility" means a multi-use performance space that:

520 (i) is primarily used to present various types of performing arts, including dance,
521 music, and theater;

- 522 (ii) contains over 2,500 seats;
- 523 (iii) is owned and operated by a governmental entity; and
- 524 (iv) is located in a city of the first class.
- 525 (b) "Performing arts facility" does not include a space that is used to present sporting
- 526 events or sporting competitions.
- 527 ~~[(87)]~~ (88) "Permittee" means a person issued a permit under:
- 528 (a) Chapter 9, Event Permit Act; or
- 529 (b) Chapter 10, Special Use Permit Act.
- 530 ~~[(88)]~~ (89) "Person subject to administrative action" means:
- 531 (a) a licensee;
- 532 (b) a permittee;
- 533 (c) a manufacturer;
- 534 (d) a supplier;
- 535 (e) an importer;
- 536 (f) one of the following holding a certificate of approval:
- 537 (i) an out-of-state brewer;
- 538 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 539 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 540 (g) staff of:
- 541 (i) a person listed in Subsections ~~[(88)]~~ (89)(a) through (f); or
- 542 (ii) a package agent.
- 543 ~~[(89)]~~ (90) "Premises" means a building, enclosure, or room used in connection with
- 544 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
- 545 product, unless otherwise defined in this title or rules made by the commission.
- 546 ~~[(90)]~~ (91) "Prescription" means an order issued by a health care practitioner when:
- 547 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 548 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 549 (b) the order is made in the course of that health care practitioner's professional
- 550 practice; and
- 551 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 552 ~~[(91)]~~ (92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

- 553 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 554 [~~(92)~~] (93) "Principal license" means:
- 555 (a) a resort license;
- 556 (b) a hotel license; or
- 557 (c) an arena license.
- 558 [~~(93)~~] (94) (a) "Private event" means a specific social, business, or recreational event:
- 559 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 560 group; and
- 561 (ii) that is limited in attendance to people who are specifically designated and their
- 562 guests.
- 563 (b) "Private event" does not include an event to which the general public is invited,
- 564 whether for an admission fee or not.
- 565 [~~(94)~~] (95) "Privately sponsored event" means a specific social, business, or
- 566 recreational event:
- 567 (a) that is held in or on the premises of an on-premise banquet licensee; and
- 568 (b) to which entry is restricted by an admission fee.
- 569 [~~(95)~~] (96) (a) "Proof of age" means:
- 570 (i) an identification card;
- 571 (ii) an identification that:
- 572 (A) is substantially similar to an identification card;
- 573 (B) is issued in accordance with the laws of a state other than Utah in which the
- 574 identification is issued;
- 575 (C) includes date of birth; and
- 576 (D) has a picture affixed;
- 577 (iii) a valid driver license certificate that:
- 578 (A) includes date of birth;
- 579 (B) has a picture affixed; and
- 580 (C) is issued:
- 581 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 582 (II) in accordance with the laws of the state in which it is issued;
- 583 (iv) a military identification card that:

- 584 (A) includes date of birth; and
- 585 (B) has a picture affixed; or
- 586 (v) a valid passport.

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

589 ~~[(96)]~~ (97) "Provisions applicable to a sublicense" means:

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

592 (b) for a limited-service restaurant sublicense, the provisions applicable to a
593 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

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

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

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

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

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

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

606 ~~[(97)]~~ (98) (a) "Public building" means a building or permanent structure that is:

607 (i) owned or leased by:

608 (A) the state; or

609 (B) a local government entity; and

610 (ii) used for:

611 (A) public education;

612 (B) transacting public business; or

613 (C) regularly conducting government activities.

614 (b) "Public building" does not include a building owned by the state or a local

615 government entity when the building is used by a person, in whole or in part, for a proprietary
616 function.

617 ~~[(98)]~~ (99) "Public conveyance" means a conveyance that the public or a portion of the
618 public has access to and a right to use for transportation, including an airline, railroad, bus,
619 boat, or other public conveyance.

620 ~~[(99)]~~ (100) "Reception center" means a business that:

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

622 (b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(99)]~~

623 (100)(a) to a third party for the third party's event.

624 ~~[(100)]~~ (101) "Reception center license" means a license issued in accordance with
625 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

626 ~~[(101)]~~ (102) (a) "Record" means information that is:

627 (i) inscribed on a tangible medium; or

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

629 (b) "Record" includes:

630 (i) a book;

631 (ii) a book of account;

632 (iii) a paper;

633 (iv) a contract;

634 (v) an agreement;

635 (vi) a document; or

636 (vii) a recording in any medium.

637 ~~[(102)]~~ (103) "Residence" means a person's principal place of abode within Utah.

638 ~~[(103)]~~ (104) "Resident," in relation to a resort, means the same as that term is defined
639 in Section [32B-8-102](#).

640 ~~[(104)]~~ (105) "Resort" means the same as that term is defined in Section [32B-8-102](#).

641 ~~[(105)]~~ (106) "Resort facility" is as defined by the commission by rule.

642 ~~[(106)]~~ (107) "Resort spa sublicense" means a resort license sublicense issued in
643 accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

644 ~~[(107)]~~ (108) "Resort license" means a license issued in accordance with Chapter 5,
645 Retail License Act, and Chapter 8, Resort License Act.

646 [~~(108)~~] (109) "Responsible alcohol service plan" means a written set of policies and
647 procedures that outlines measures to prevent employees from:

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

652 [~~(109)~~] (110) "Restaurant" means a business location:

- 653 (a) at which a variety of foods are prepared;
- 654 (b) at which complete meals are served; and
- 655 (c) that is engaged primarily in serving meals.

656 [~~(110)~~] (111) "Restaurant license" means one of the following licenses issued under
657 this title:

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

661 [~~(111)~~] (112) "Retail license" means one of the following licenses issued under this
662 title:

- 663 (a) a full-service restaurant license;
- 664 (b) a master full-service restaurant license;
- 665 (c) a limited-service restaurant license;
- 666 (d) a master limited-service restaurant license;
- 667 (e) a bar establishment license;
- 668 (f) an airport lounge license;
- 669 (g) an on-premise banquet license;
- 670 (h) an on-premise beer license;
- 671 (i) a reception center license;
- 672 (j) a beer-only restaurant license;
- 673 (k) a hospitality amenity license;
- 674 (l) a resort license;
- 675 (m) a hotel license; or
- 676 (n) an arena license.

677 [~~(H2)~~] (113) "Room service" means furnishing an alcoholic product to a person in a
678 guest room or privately owned dwelling unit of a:

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

681 [~~(H3)~~] (114) (a) "School" means a building in which any part is used for more than
682 three hours each weekday during a school year as a public or private:

- 683 (i) elementary school;
684 (ii) secondary school; or
685 (iii) kindergarten.
686 (b) "School" does not include:
687 (i) a nursery school;
688 (ii) a day care center;
689 (iii) a trade and technical school;
690 (iv) a preschool; or
691 (v) a home school.

692 [~~(H4)~~] (115) "Secondary flavoring ingredient" means any spirituous liquor added to a
693 beverage for additional flavoring that is different in type, flavor, or brand from the primary
694 spirituous liquor in the beverage.

695 [~~(H5)~~] (116) "Sell" or "offer for sale" means a transaction, exchange, or barter
696 whereby, for consideration, an alcoholic product is either directly or indirectly transferred,
697 solicited, ordered, delivered for value, or by a means or under a pretext is promised or
698 obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise
699 defined in this title or the rules made by the commission.

700 [~~(H6)~~] (117) "Serve" means to place an alcoholic product before an individual.

701 [~~(H7)~~] (118) "Sexually oriented entertainer" means a person who while in a state of
702 seminudity appears at or performs:

- 703 (a) for the entertainment of one or more patrons;
704 (b) on the premises of:
705 (i) a bar licensee; or
706 (ii) a tavern;
707 (c) on behalf of or at the request of the licensee described in Subsection [~~(H7)~~]

708 (118)(b);

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

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

711 (i) an employee;

712 (ii) an independent contractor;

713 (iii) an agent of the licensee; or

714 (iv) a different type of classification.

715 [~~(118)~~] (119) "Shared seating area" means the licensed premises of two or more
716 restaurant licensees that the restaurant licensees share as an area for alcoholic beverage
717 consumption in accordance with Subsection [32B-5-207\(3\)](#).

718 [~~(119)~~] (120) "Single event permit" means a permit issued in accordance with Chapter
719 9, Part 3, Single Event Permit.

720 [~~(120)~~] (121) "Small brewer" means a brewer who manufactures less than 60,000
721 barrels of beer, heavy beer, and flavored malt ~~[beverages]~~ beverage per year, as the department
722 calculates by:

723 (a) if the brewer is part of a controlled group of breweries, including the combined
724 volume totals of production for all breweries that constitute the controlled group of breweries;
725 and

726 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:

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

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

731 [~~(121)~~] (122) "Small or unincorporated locality" means:

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

733 (b) a town, as classified under Section [10-2-301](#); or

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

736 [~~(122)~~] (123) "Special use permit" means a permit issued in accordance with Chapter
737 10, Special Use Permit Act.

738 [~~(123)~~] (124) (a) "Spirituous liquor" means liquor that is distilled.

739 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
740 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

741 [~~(124)~~] (125) "Sports center" is as defined by the commission by rule.

742 [~~(125)~~] (126) (a) "Staff" means an individual who engages in activity governed by this
743 title:

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

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

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

750 (b) "Staff" includes:

751 (i) an officer;

752 (ii) a director;

753 (iii) an employee;

754 (iv) personnel management;

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

756 (vi) an operator; or

757 (vii) a representative.

758 [~~(126)~~] (127) "State of nudity" means:

759 (a) the appearance of:

760 (i) the nipple or areola of a female human breast;

761 (ii) a human genital;

762 (iii) a human pubic area; or

763 (iv) a human anus; or

764 (b) a state of dress that fails to opaquely cover:

765 (i) the nipple or areola of a female human breast;

766 (ii) a human genital;

767 (iii) a human pubic area; or

768 (iv) a human anus.

769 [~~(127)~~] (128) "State of seminudity" means a state of dress in which opaque clothing

770 covers no more than:

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

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

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

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

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

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

778 [~~(128)~~] (129) (a) "State store" means a facility for the sale of packaged liquor:

779 (i) located on premises owned or leased by the state; and

780 (ii) operated by a state employee.

781 (b) "State store" does not include:

782 (i) a package agency;

783 (ii) a licensee; or

784 (iii) a permittee.

785 [~~(129)~~] (130) (a) "Storage area" means an area on licensed premises where the licensee
786 stores an alcoholic product.

787 (b) "Store" means to place or maintain in a location an alcoholic product.

788 [~~(130)~~] (131) "Sublicense" means:

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

791 (i) a full-service restaurant license;

792 (ii) a limited-service restaurant license;

793 (iii) a bar establishment license;

794 (iv) an on-premise banquet license;

795 (v) an on-premise beer retailer license;

796 (vi) a beer-only restaurant license; or

797 (vii) a hospitality amenity license; or

798 (b) a resort spa sublicense.

799 [~~(131)~~] (132) "Supplier" means a person who sells an alcoholic product to the
800 department.

801 [~~(132)~~] (133) "Tavern" means an on-premise beer retailer who is:

802 (a) issued a license by the commission in accordance with Chapter 5, Retail License
803 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

804 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
805 On-Premise Beer Retailer License.

806 [~~(133)~~] (134) "Temporary beer event permit" means a permit issued in accordance with
807 Chapter 9, Part 4, Temporary Beer Event Permit.

808 [~~(134)~~] (135) "Temporary domicile" means the principal place of abode within Utah of
809 a person who does not have a present intention to continue residency within Utah permanently
810 or indefinitely.

811 [~~(135)~~] (136) "Translucent" means a substance that allows light to pass through, but
812 does not allow an object or person to be seen through the substance.

813 [~~(136)~~] (137) "Unsaleable liquor merchandise" means a container that:

814 (a) is unsaleable because the container is:

815 (i) unlabeled;

816 (ii) leaky;

817 (iii) damaged;

818 (iv) difficult to open; or

819 (v) partly filled;

820 (b) (i) has faded labels or defective caps or corks;

821 (ii) has contents that are:

822 (A) cloudy;

823 (B) spoiled; or

824 (C) chemically determined to be impure; or

825 (iii) contains:

826 (A) sediment; or

827 (B) a foreign substance; or

828 (c) is otherwise considered by the department as unfit for sale.

829 [~~(137)~~] (138) (a) "Wine" means an alcoholic product obtained by the fermentation of
830 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
831 not another ingredient is added.

- 832 (b) "Wine" includes:
- 833 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
- 834 4.10; and
- 835 (ii) hard cider.
- 836 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
- 837 in this title.

838 ~~[(138)]~~ (139) "Winery manufacturing license" means a license issued in accordance

839 with Chapter 11, Part 3, Winery Manufacturing License.

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

841 **32B-1-202. Proximity to community location.**

842 (1) As used in this section:

843 (a) (i) "Outlet" means:

844 (A) a state store;

845 (B) a package agency; or

846 (C) a retail licensee.

847 (ii) "Outlet" does not include:

848 (A) an airport lounge licensee; or

849 (B) a restaurant.

850 (b) "Restaurant" means:

851 (i) a full-service restaurant licensee;

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

853 (iii) a beer-only restaurant licensee.

854 (2) (a) ~~[The]~~ Except as otherwise provided in this section or Section [32B-1-202.1](#), the

855 commission may not issue a license for an outlet if, on the date the commission takes final

856 action to approve or deny the application, there is a community location:

857 (i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance

858 of the proposed outlet by following the shortest route of ordinary pedestrian travel to the

859 property boundary of the community location; or

860 (ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest

861 patron entrance of the proposed outlet to the nearest property boundary of the community

862 location.

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

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

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

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

877 (i) the outlet or restaurant changes ownership;

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

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

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

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

889 (a) the outlet or restaurant changes ownership;

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

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

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

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

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

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

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

910 **32B-1-202.1. Proximity for certain hotel licensees.**

911 (1) As used in this section, "hotel" means the same as that term is defined in Section
912 [32B-8b-102.](#)

913 (2) The commission may issue a hotel license for a proposed location that does not
914 meet the proximity requirements under Section [32B-1-202](#), if:

915 (a) the hotel is not scheduled to open for business until after June 1, 2021;

916 (b) the proposed hotel is:

917 (i) located in a city classified as a city of the first class under Section [10-2-301](#);

918 (ii) within 600 feet of two community locations, as measured from the nearest patron
919 entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to
920 the property boundary of each community location;

921 (iii) not within 300 feet of a community location, as measured from the nearest patron
922 entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to
923 the property boundary of the community location; and

924 (iv) not within 200 feet of a community location, as measured in a straight line from

925 the nearest patron entrance of the proposed hotel to the nearest property boundary of the
 926 community location;

927 (c) the proposed sublicensed premises of a bar establishment sublicense under the hotel
 928 license:

929 (i) is on the second or higher floor of a hotel;

930 (ii) is not accessible at street level; and

931 (iii) is only accessible to an individual who passes through another area of the hotel in
 932 which the bar establishment sublicense is located; and

933 (d) the applicant meets all other criteria under this title for the hotel license.

934 (3) The commission may issue authority to operate as a package agency to a hotel
 935 licensee who meets the requirements described in Subsection (2).

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

937 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

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

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

943 [or]

944 (2) an individual portion of wine, as described in Subsection [32B-5-304\(2\)\(a\)](#), by the
 945 retail licensee or under a sublicense that is in excess of \$30[-]; or

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

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

949 **32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

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

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

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

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

959 (B) a crime involving moral turpitude; or

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

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

966 (i) a partner;

967 (ii) a managing agent;

968 (iii) a manager;

969 (iv) an officer;

970 (v) a director;

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

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

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

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

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

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

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

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

987 influence of alcohol and drugs; and

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

991 (3) Except as described in Section 32B-8-501, the director may take emergency action
992 by immediately suspending the operation of the package agency, licensee, or permittee for the
993 period during which a criminal matter is being adjudicated if a person described in Subsection
994 (1):

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

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

998 (ii) was convicted of driving under the influence of alcohol, drugs, or the combined
999 influence of alcohol and drugs within five years before the day on which the person is arrested
1000 on a charge described in Subsection (3)(b)(i).

1001 (4) (a) (i) The commission may not issue a package agency, license, or permit to a
1002 person who has had any type of agency, license, or permit issued under this title revoked within
1003 the last three years.

1004 (ii) The commission may not issue a package agency, license, or permit to a
1005 partnership, corporation, or limited liability company if a partner, managing agent, manager,
1006 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
1007 of the corporation, or member who owns at least 20% of the limited liability company is or
1008 was:

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

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

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

1017 (b) The commission may not issue a package agency, licence, or permit to a

1018 partnership, corporation, or limited liability company if any of the following had any type of
1019 agency, license, or permit issued under this title revoked while acting in that person's individual
1020 capacity within the last three years:

1021 (i) a partner or managing agent of a partnership;

1022 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1023 total issued and outstanding stock of a corporation; or

1024 (iii) a manager or member who owns at least 20% of a limited liability company.

1025 (c) The commission may not issue a package agency, license, or permit to a person
1026 acting in an individual capacity if that person was:

1027 (i) a partner or managing agent of a partnership that had any type of agency, license, or
1028 permit issued under this title revoked within the last three years;

1029 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1030 total issued and outstanding stock of a corporation that had any type of agency, license, or
1031 permit issued under this title revoked within the last three years; or

1032 (iii) a manager or member who owned at least 20% of the limited liability company
1033 that had any type of agency, license, or permit issued under this title revoked within the last
1034 three years.

1035 (5) (a) The commission may not issue a package agency, license, or permit to a minor.

1036 (b) The commission may not issue a package agency, license, or permit to a
1037 partnership, corporation, or limited liability company if any of the following is a minor:

1038 (i) a partner or managing agent of the partnership;

1039 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1040 total issued and outstanding stock of the corporation; or

1041 (iii) a manager or member who owns at least 20% of the limited liability company.

1042 (6) Except as described in Section [32B-8-501](#), if a package agent, licensee, or permittee
1043 no longer possesses the qualifications required by this title for obtaining a package agency,
1044 license, or permit, the commission may terminate the package agency agreement, or revoke the
1045 license or permit.

1046 (7) (a) If the licensee is a resort licensee:

1047 ~~(a)~~ (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b)
1048 engages in the management of the resort, as the commission defines in rule; and

1049 ~~[(b)]~~ (ii) Subsection (1)(c) only applies to an individual employed to act in a
 1050 supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the
 1051 resort license.

1052 (b) If the permittee is a public service permittee under Chapter 10, Special Use Permit
 1053 Act:

1054 (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in
 1055 the management of the airline, railroad, or other public conveyance, as the commission defines
 1056 in rule; and

1057 (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or
 1058 managerial capacity for the public service permittee.

1059 Section 6. Section **32B-1-607** is amended to read:

1060 **32B-1-607. Rulemaking authority.**

1061 (1) The commission may adopt rules necessary to implement this part.

1062 (2) Notwithstanding Subsections **32B-1-102**(12) and ~~[(50)]~~ (51), in accordance with
 1063 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules
 1064 that allow for a tolerance in the alcohol content of beer or heavy beer as follows:

1065 (a) up to 0.18% above or below when measured by volume; or

1066 (b) up to 0.15% above or below when measured by weight.

1067 Section 7. Section **32B-2-304** is amended to read:

1068 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

1069 (1) For purposes of this section:

1070 (a) (i) "Landed case cost" means:

1071 (A) the cost of the product; and

1072 (B) inbound shipping costs incurred by the department.

1073 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
 1074 of the department to a state store.

1075 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

1076 ~~[(c) Notwithstanding Section **32B-1-102**, "small brewer" means a brewer who~~
 1077 ~~manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt~~
 1078 ~~beverage.]~~

1079 (2) Except as provided in Subsections (3) and (4):

1080 (a) spirituous liquor sold by the department within the state shall be marked up in an
1081 amount not less than 88% above the landed case cost to the department;

1082 (b) wine sold by the department within the state shall be marked up in an amount not
1083 less than 88% above the landed case cost to the department;

1084 (c) heavy beer sold by the department within the state shall be marked up in an amount
1085 not less than 66.5% above the landed case cost to the department; and

1086 (d) a flavored malt beverage sold by the department within the state shall be marked up
1087 in an amount not less than 88% above the landed case cost to the department.

1088 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
1089 up in an amount not less than 17% above the landed case cost to the department.

1090 (b) Except for spirituous liquor sold by the department to a military installation in
1091 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
1092 above the landed case cost to the department if:

1093 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
1094 proof gallons of spirituous liquor in a calendar year; and

1095 (ii) the manufacturer applies to the department for a reduced markup.

1096 (c) Except for wine sold by the department to a military installation in Utah, wine that
1097 is sold by the department within the state shall be marked up 49% above the landed case cost to
1098 the department if:

1099 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a
1100 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

1101 (B) for hard cider, the hard cider is manufactured by a manufacturer producing less
1102 than 620,000 gallons of hard cider in a calendar year; and

1103 (ii) the manufacturer applies to the department for a reduced markup.

1104 (d) Except for heavy beer sold by the department to a military installation in Utah,
1105 heavy beer that is sold by the department within the state shall be marked up 32% above the
1106 landed case cost to the department if:

1107 (i) a small brewer manufactures the heavy beer; and

1108 (ii) the small brewer applies to the department for a reduced markup.

1109 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
1110 pursuant to a federal or other verifiable production report.

1111 (f) For purposes of determining whether an alcoholic product qualifies for a markup
1112 under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the
1113 applicable production requirement without considering the manufacturer's production of any
1114 other type of alcoholic product.

1115 (g) The department may, at any time, revoke a reduced markup granted to a
1116 manufacturer under Subsection (3)(b), (c), or (d), if the department determines the
1117 manufacturer no longer qualifies for the reduced markup.

1118 (4) Wine the department purchases on behalf of a subscriber through the wine
1119 subscription program established in Section 32B-2-702 shall be marked up not less than 88%
1120 above the cost of the subscription for the interval in which the wine is purchased.

1121 (5) The department shall deposit 10% of the total gross revenue from sales of liquor
1122 with the state treasurer to be credited to the Uniform School Fund and used to support the
1123 school meals program administered by the State Board of Education under Section 53E-3-510.

1124 (6) This section does not prohibit the department from selling discontinued items at a
1125 discount.

1126 Section 8. Section 32B-2-306 is amended to read:

1127 **32B-2-306. Underage drinking prevention media and education campaign.**

1128 (1) As used in this section:

1129 (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory
1130 Council created in Section 63M-7-301.

1131 (b) "Restricted account" means the Underage Drinking Prevention Media and
1132 Education Campaign Restricted Account created in this section.

1133 (2) (a) There is created a restricted account within the General Fund known as the
1134 "Underage Drinking Prevention Media and Education Campaign Restricted Account."

1135 (b) The restricted account consists of:

1136 (i) deposits made under Subsection (3); and

1137 (ii) interest earned on the restricted account.

1138 (3) The department shall deposit [~~0.468%~~] 0.6% of the total gross revenue from sales
1139 of liquor with the state treasurer, as determined by the total gross revenue collected for the
1140 fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to
1141 the restricted account and to be used by the department as provided in Subsection (5).

- 1142 (4) The advisory council shall:
- 1143 (a) provide ongoing oversight of a media and education campaign funded under this
- 1144 section;
- 1145 (b) create an underage drinking prevention workgroup consistent with guidelines
- 1146 proposed by the advisory council related to the membership and duties of the underage
- 1147 drinking prevention workgroup;
- 1148 (c) create guidelines for how money appropriated for a media and education campaign
- 1149 can be used;
- 1150 (d) include in the guidelines established pursuant to this Subsection (4) that a media
- 1151 and education campaign funded under this section is carefully researched and developed, and
- 1152 appropriate for target groups; and
- 1153 (e) approve plans submitted by the department in accordance with Subsection (5).
- 1154 (5) (a) Subject to appropriation from the Legislature, the department shall expend
- 1155 money from the restricted account to direct and fund one or more media and education
- 1156 campaigns designed to reduce underage drinking in cooperation with the advisory council.
- 1157 (b) The department shall:
- 1158 (i) in cooperation with the underage drinking prevention workgroup created under
- 1159 Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of
- 1160 the money appropriated under this section;
- 1161 (ii) upon approval of the plan by the advisory council, conduct the media and education
- 1162 campaign in accordance with the guidelines made by the advisory council; and
- 1163 (iii) submit to the advisory council annually by no later than October 1, a written report
- 1164 detailing the use of the money for the media and education campaigns conducted under this
- 1165 Subsection (5) and the impact and results of the use of the money during the prior fiscal year
- 1166 ending June 30.
- 1167 Section 9. Section **32B-2-604** is amended to read:
- 1168 **32B-2-604. Bond related to package agency.**
- 1169 (1) (a) A package agent who has a consignment liquor inventory owned by the state
- 1170 shall post a:
- 1171 (i) consignment surety bond;
- 1172 (A) payable to the department; and

- 1173 (B) in the amount of the consignment inventory[-]; and
 1174 (ii) cash or surety bond:
 1175 (A) payable to the department; and
 1176 (B) in the penal amount of at least \$1,000, as the department determines.
 1177 (b) A package agent who has a consignment liquor inventory shall ensure that a
 1178 consignment surety bond [~~shall be~~] is conditioned upon a package agent's return of the unsold
 1179 consignment liquor inventory at the termination of a package agency agreement.
 1180 (2) (a) A package agent that owns the package agency's liquor inventory shall post a
 1181 cash bond or surety bond:
 1182 (i) in the penal amount [~~fixed by the department, except that the penal amount shall be~~]
 1183 of at least \$1,000, as the department determines; and
 1184 (ii) payable to the department.
 1185 (3) A package agent shall procure and maintain the bond required under this section for
 1186 as long as the package agent continues to operate as a package agent.
 1187 (4) A bond required under this section shall be:
 1188 (a) in a form approved by the attorney general; and
 1189 (b) conditioned upon the package agent's faithful compliance with this title, the rules of
 1190 the commission, and the package agency agreement.
 1191 (5) (a) If a surety bond posted by a package agency under this section is canceled due to
 1192 the package agent's or package agency's negligence, the department may assess a \$300
 1193 reinstatement fee.
 1194 (b) No part of a bond posted by a package agent under this section may be withdrawn:
 1195 (i) during the period the package agency is in effect; or
 1196 (ii) while a revocation of the package agency is pending against the package agent.
 1197 (6) (a) A bond posted under this section by a package agent may be forfeited if the
 1198 package agency is revoked.
 1199 (b) Notwithstanding Subsection (6)(a), the department may make a claim against a
 1200 bond posted by a package agent for money owed the department under this title without the
 1201 commission first revoking the package agency.
 1202 Section 10. Section **32B-2-605** is amended to read:
 1203 **32B-2-605. Operational requirements for package agency.**

1204 (1) (a) A person may not operate a package agency until a package agency agreement is
1205 entered into by the package agent and the department.

1206 (b) A package agency agreement shall state the conditions of operation by which the
1207 package agent and the department are bound.

1208 (c) (i) If a package agent or staff of the package agent violates this title, rules under this
1209 title, or the package agency agreement, the department may take any action against the package
1210 agent that is allowed by the package agency agreement.

1211 (ii) An action against a package agent is governed solely by its package agency
1212 agreement and may include suspension or revocation of the package agency.

1213 (iii) A package agency agreement shall provide procedures to be followed if a package
1214 agent fails to pay money owed to the department including a procedure for replacing the
1215 package agent or operator of the package agency.

1216 (iv) A package agency agreement shall provide that the package agency is subject to
1217 covert investigations for selling an alcoholic product to a minor.

1218 (v) Notwithstanding that this part refers to "package agency" or "package agent," staff
1219 of the package agency or package agent is subject to the same requirement or prohibition.

1220 (2) (a) A package agency shall be operated by an individual who is either:

1221 (i) the package agent; or

1222 (ii) an individual designated by the package agent.

1223 (b) An individual who is a designee under this Subsection (2) shall be:

1224 (i) an employee of the package agent; and

1225 (ii) responsible for the operation of the package agency.

1226 (c) The conduct of the designee is attributable to the package agent.

1227 (d) A package agent shall submit the name of the person operating the package agency
1228 to the department for the department's approval.

1229 (e) A package agent shall state the name and title of a designee on the application for a
1230 package agency.

1231 (f) A package agent shall:

1232 (i) inform the department of a proposed change in the individual designated to operate
1233 a package agency; and

1234 (ii) receive prior approval from the department before implementing the change

1235 described in this Subsection (2)(f).

1236 (g) Failure to comply with the requirements of this Subsection (2) may result in the
1237 immediate termination of a package agency agreement.

1238 (3) (a) A package agent shall display in a prominent place in the package agency the
1239 record issued by the commission that designates the package agency.

1240 (b) A package agent that displays or stores liquor at a location visible to the public
1241 shall display in a prominent place in the package agency a sign in large letters that consists of
1242 text in the following order:

1243 (i) a header that reads: "WARNING";

1244 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1245 can cause birth defects and permanent brain damage for the child.";

1246 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1247 [insert most current toll-free number] with questions or for more information.";

1248 (iv) a header that reads: "WARNING"; and

1249 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1250 serious crime that is prosecuted aggressively in Utah."

1251 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
1252 font style than the text described in Subsections (3)(b)(iv) and (v).

1253 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
1254 same font size.

1255 (d) The Department of Health shall work with the commission and department to
1256 facilitate consistency in the format of a sign required under this section.

1257 (4) A package agency may not display liquor or a price list in a window or showcase
1258 that is visible to passersby.

1259 (5) (a) A package agency may not purchase liquor from a person except from the
1260 department.

1261 (b) At the discretion of the department, the department may provide liquor to a package
1262 agency for sale on consignment.

1263 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
1264 other than as designated in the package agent's application, unless the package agent first
1265 applies for and receives approval from the department for a change of location within the

1266 package agency premises.

1267 (7) (a) Except as provided in Subsection (7)(b), a package agency may not sell, offer for
1268 sale, or furnish liquor except at a price fixed by the commission.

1269 (b) A package agency may provide as room service one alcoholic product free of
1270 charge per guest reservation, per guest room, if:

1271 (i) the package agency is the type of package agency that authorizes the package
1272 agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

1273 (ii) staff of the package agency provides the alcoholic product:

1274 (A) in person; and

1275 (B) only to an adult guest in the guest room;

1276 (iii) staff of the package agency does not leave the alcoholic product outside a guest
1277 room for retrieval by a guest; and

1278 (iv) the alcoholic product:

1279 (A) is not a spirituous liquor; and

1280 (B) is in an unopened container not to exceed 750 milliliters.

1281 (8) A package agency may not sell, offer for sale, or furnish liquor to:

1282 (a) a minor;

1283 (b) a person actually, apparently, or obviously intoxicated;

1284 (c) a known interdicted person; or

1285 (d) a known habitual drunkard.

1286 (9) (a) A package agency may not employ a minor to handle liquor.

1287 (b) (i) Staff of a package agency may not:

1288 (A) consume an alcoholic product on the premises of a package agency; or

1289 (B) allow any person to consume an alcoholic product on the premises of a package
1290 agency.

1291 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

1292 (10) (a) A package agency may not close or cease operation for a period longer than 72
1293 hours, unless:

1294 (i) the package agency notifies the department in writing at least seven days before the
1295 day on which the package agency closes or ceases operation; and

1296 (ii) the closure or cessation of operation is first approved by the department.

1297 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
1298 agency shall immediately notify the department by telephone.

1299 (c) (i) The department may authorize a closure or cessation of operation for a period
1300 not to exceed 60 days.

1301 (ii) The department may extend the initial period described in Subsection (10)(c)(i) an
1302 additional 30 days upon written request of the package agency and upon a showing of good
1303 cause.

1304 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1305 commission approval.

1306 (d) The notice required by Subsection (10)(a) shall include:

1307 (i) the dates of closure or cessation of operation;

1308 (ii) the reason for the closure or cessation of operation; and

1309 (iii) the date on which the package agency will reopen or resume operation.

1310 (e) Failure of a package agency to provide notice and to obtain department
1311 authorization before closure or cessation of operation results in an automatic termination of the
1312 package agency agreement effective immediately.

1313 (f) Failure of a package agency to reopen or resume operation by the approved date
1314 results in an automatic termination of the package agency agreement effective on that date.

1315 (11) A package agency may not transfer the package agency's operations from one
1316 location to another location without prior written approval of the commission.

1317 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
1318 exchange, barter, give, or attempt in any way to dispose of the package agency to another
1319 person, whether for monetary gain or not.

1320 (b) A package agency has no monetary value for any type of disposition.

1321 (13) (a) Subject to the other provisions of this Subsection (13):

1322 (i) sale or delivery of liquor may not be made on or from the premises of a package
1323 agency, and a package agency may not be kept open for the sale of liquor:

1324 (A) on Sunday; or

1325 (B) on a state or federal legal holiday~~[-];~~ and

1326 (ii) ~~[Sale]~~ sale or delivery of liquor may be made on or from the premises of a package
1327 agency, and a package agency may be open for the sale of liquor, only on a day and during

1328 hours that the commission directs by rule or order.

1329 (b) A package agency located at a manufacturing facility is not subject to Subsection
1330 (13)(a) if:

1331 (i) the package agency is located at a manufacturing facility licensed in accordance
1332 with Chapter 11, Manufacturing and Related Licenses Act;

1333 (ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing
1334 and Related Licenses Act, holds:

1335 (A) a full-service restaurant license;

1336 (B) a limited-service restaurant license;

1337 (C) a beer-only restaurant license;

1338 (D) a dining club license; or

1339 (E) a bar license;

1340 (iii) the restaurant, dining club, or bar is located at the manufacturing facility;

1341 (iv) the restaurant, dining club, or bar sells an alcoholic product produced at the
1342 manufacturing facility;

1343 (v) the manufacturing facility:

1344 (A) owns the restaurant, dining club, or bar; or

1345 (B) operates the restaurant, dining club, or bar;

1346 (vi) the package agency only sells an alcoholic product produced at the manufacturing
1347 facility; and

1348 (vii) the package agency's days and hours of sale are the same as the days and hours of
1349 sale at the restaurant, dining club, or bar.

1350 (c) (i) Subsection (13)(a) does not apply to a package agency held by the following if
1351 the package agent that holds the package agency to sell liquor at a resort or hotel does not sell
1352 liquor in a manner similar to a state store:

1353 (A) a resort licensee; or

1354 (B) a hotel licensee.

1355 (ii) The commission may by rule define what constitutes a package agency that sells
1356 liquor "in a manner similar to a state store."

1357 (14) (a) Except to the extent authorized by commission rule, a minor may not be
1358 admitted into, or be on the premises of, a package agency unless accompanied by a person who

1359 is:

1360 (i) 21 years of age or older; and

1361 (ii) the minor's parent, legal guardian, or spouse.

1362 (b) A package agent or staff of a package agency that has reason to believe that a
1363 person who is on the premises of a package agency is under the age of 21 and is not
1364 accompanied by a person described in Subsection (14)(a) may:

1365 (i) ask the suspected minor for proof of age;

1366 (ii) ask the person who accompanies the suspected minor for proof of age; and

1367 (iii) ask the suspected minor or the person who accompanies the suspected minor for
1368 proof of parental, guardianship, or spousal relationship.

1369 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
1370 suspected minor and to the person who accompanies the suspected minor into the package
1371 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1372 (d) A package agent or staff of a package agency shall require the suspected minor and
1373 the person who accompanies the suspected minor into the package agency to immediately leave
1374 the premises of the package agency if the minor or person fails to provide information specified
1375 in Subsection (14)(b).

1376 (15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed
1377 container.

1378 (b) A person may not open a sealed container on the premises of a package agency.

1379 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or
1380 furnish liquor in other than a sealed container:

1381 (i) if the package agency is the type of package agency that authorizes the package
1382 agency to sell, offer for sale, or furnish the liquor as part of room service;

1383 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1384 (iii) subject to:

1385 (A) staff of the package agency providing the liquor in person only to an adult guest in
1386 the guest room or privately owned dwelling unit;

1387 (B) staff of the package agency not leaving the liquor outside a guest room or privately
1388 owned dwelling unit for retrieval by a guest or resident; and

1389 (C) the same limits on the portions in which an alcoholic product may be sold by a

1390 retail licensee under Section [32B-5-304](#).

1391 (16) [~~On or after October 1, 2011, a~~] A package agency may not sell, offer for sale, or
1392 furnish heavy beer in a sealed container that exceeds two liters.

1393 (17) The department may pay or otherwise remunerate a package agent on any basis,
1394 including sales or volume of business done by the package agency.

1395 (18) The commission may prescribe by policy or rule general operational requirements
1396 of a package agency that are consistent with this title and relate to:

1397 (a) physical facilities;

1398 (b) conditions of operation;

1399 (c) hours of operation;

1400 (d) inventory levels;

1401 (e) payment schedules;

1402 (f) methods of payment;

1403 (g) premises security; and

1404 (h) any other matter considered appropriate by the commission.

1405 (19) A package agency may not maintain a minibar.

1406 Section 11. Section **32B-4-403** is amended to read:

1407 **32B-4-403. Unlawful sale, offer for sale, or furnishing to minor.**

1408 (1) A person may not sell, offer for sale, or furnish an alcoholic product to a minor.

1409 (2) (a) (i) Except as provided in Subsection (3), a person is guilty of a class B
1410 misdemeanor if the person who violates Subsection (1) negligently or recklessly fails to
1411 determine whether the recipient of the alcoholic product is a minor.

1412 (ii) As used in this Subsection (2)(a), "negligently" means with simple negligence.

1413 (b) Except as provided in Subsection (3), a person is guilty of a class A misdemeanor if
1414 the person who violates Subsection (1) knows the [~~recipient~~] purchaser of the alcoholic product
1415 is a minor.

1416 (3) This section does not apply to the furnishing of an alcoholic product to a minor in
1417 accordance with this title:

1418 (a) for medicinal purposes by:

1419 (i) the parent or guardian of the minor; or

1420 (ii) the health care practitioner of the minor, if the health care practitioner is authorized

1421 by law to write a prescription; or

1422 (b) as part of a religious organization's religious services.

1423 Section 12. Section **32B-4-404** is amended to read:

1424 **32B-4-404. Unlawful sale, offer for sale, or furnishing to intoxicated person.**

1425 (1) A person may not sell, offer for sale, or furnish an alcoholic product directly to:

1426 (a) a person who is actually or apparently intoxicated; or

1427 (b) a person whom the person furnishing the alcoholic product knows or should know
1428 from the circumstances is actually or apparently intoxicated.

1429 (2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a
1430 class B misdemeanor.

1431 (b) A person who knowingly violates Subsection (1) is guilty of a class A
1432 misdemeanor.

1433 (3) As used in Subsection (2)(a), "negligently" means with simple negligence.

1434 Section 13. Section **32B-5-202** is amended to read:

1435 **32B-5-202. Renewal requirements.**

1436 (1) A retail license expires each year on the day specified in the relevant chapter or part
1437 for that type of retail license.

1438 (2) (a) To renew a person's retail license, a retail licensee shall ~~by no later than the~~
1439 ~~day specified in the relevant chapter or part for the type of retail license that the person seeks to~~
1440 ~~renew;~~ submit:

1441 (i) a completed renewal application in a form prescribed by the department; ~~and~~

1442 (ii) a renewal fee in the amount specified in the relevant chapter or part for the type of
1443 retail license that the person seeks to renew~~[-]; and~~

1444 ~~[(b) A retail licensee shall submit]~~ (iii) a responsible alcohol service plan ~~[as part of~~
1445 ~~the retail licensee's renewal application]~~ if, since the retail licensee's most recent application or
1446 renewal, the retail licensee:

1447 ~~[(i)]~~ (A) made substantial changes to the retail licensee's responsible alcohol service
1448 plan; or

1449 ~~[(ii)]~~ (B) violated a provision of this chapter.

1450 (b) (i) Except as provided for in Subsection (2)(b)(ii), a retail licensee shall fulfill the
1451 renewal requirements under Subsection (2)(a) on or before the day specified in the relevant

1452 chapter or part for the type of retail license that the person seeks to renew.

1453 (ii) The commission may:

1454 (A) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative

1455 Rulemaking Act, permitting and establishing the parameters of late retail license renewals; and

1456 (B) establish a fee, in accordance with Section [63J-1-504](#), for late retail license
1457 renewals.

1458 (c) The department may audit a retail licensee's responsible alcohol service plan.

1459 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
1460 retail license effective on the day on which the existing retail license expires.

1461 Section 14. Section **32B-5-205** is amended to read:

1462 **32B-5-205. Conditional retail license.**

1463 (1) As used in this section:

1464 (a) "Conditional retail license" means a retail license that:

1465 (i) conditions the holder's ability to sell, offer for sale, furnish, or allow the
1466 consumption of an alcoholic product on its licensed premises on the person submitting to the
1467 department a copy of the holder's current business license before obtaining a valid retail
1468 license; and

1469 (ii) provides that the holder will be issued a valid retail license if the holder complies
1470 with the requirements of Subsection (3).

1471 (b) "Valid retail license" means a retail license issued pursuant to this part under which
1472 the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1473 product on its licensed premises.

1474 (2) Subject to the requirements of this section, the commission may issue a conditional
1475 retail license to a person if the person:

1476 (a) meets the requirements to obtain the retail license for which the person is applying
1477 except the requirement to submit a copy of the person's current business license; and

1478 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1479 product on its licensed premises before obtaining a valid retail license.

1480 (3) (a) A conditional retail license becomes a valid retail license on the day on which
1481 the department notifies the person who holds the conditional retail license that the department
1482 finds that the person has complied with Subsection (3)(b).

1483 (b) For a conditional retail license to become a valid retail license, a person who holds
1484 the conditional retail license shall:

1485 (i) submit to the department a copy of the person's current business license; and

1486 (ii) provide to the department evidence satisfactory to the department that:

1487 (A) there has been no change in the information submitted to the commission as part of
1488 the person's application for a retail license; and

1489 (B) the person continues to qualify for the retail license.

1490 (4) (a) A conditional retail license expires [~~nine~~] 18 months after the day on which the
1491 commission issues the conditional retail license, unless the conditional retail license becomes a
1492 valid retail license before that day.

1493 (b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a
1494 conditional retail license an additional [~~three~~] six months if the holder of the conditional
1495 license can show to the satisfaction of the commission that the holder of the conditional
1496 license:

1497 (i) has an active building permit related to the licensed premises; and

1498 (ii) is engaged in a good faith effort to pursue completion within the [~~three~~] six-month
1499 period.

1500 Section 15. Section **32B-5-307** is amended to read:

1501 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
1502 **premises.**

1503 (1) Except as provided in Subsections (3) [~~through (5)~~] and (4):

1504 (a) [~~A~~] a person may not bring onto the licensed premises of a retail licensee an
1505 alcoholic product for on-premise consumption[~~;~~];

1506 (b) [~~A~~] a retail licensee may not allow a person to:

1507 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

1508 (ii) consume an alcoholic product brought onto the licensed premises by a person other
1509 than the retail licensee[~~;~~]; and

1510 (c) [~~A~~] a retail licensee may not sell, offer for sale, or furnish an alcoholic product
1511 through a window or door to a location off the licensed premises or to a vehicular traffic area.

1512 (2) Except as provided in Subsections (3) [~~through (5)~~], (4), and Subsection

1513 32B-4-415(5):

1514 (a) a person may not carry from a licensed premises of a retail licensee an open
1515 container that:

1516 (i) is used primarily for drinking purposes; and

1517 (ii) contains an alcoholic product;

1518 (b) a retail licensee may not permit a patron to carry from the licensed premises an
1519 open container described in Subsection (2)(a); and

1520 (c) (i) a person may not carry from a licensed premises of a retail licensee a sealed
1521 container of liquor that has been purchased from the retail licensee; and

1522 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
1523 sealed container of liquor that has been purchased from the retail licensee.

1524 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
1525 on-premise consumption if:

1526 (i) permitted by the retail licensee; and

1527 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

1528 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
1529 patron shall deliver the bottled wine to a server or other representative of the retail licensee
1530 upon entering the licensed premises.

1531 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
1532 wine service for a bottled wine carried onto the licensed premises in accordance with this
1533 Subsection (3) or a bottled wine purchased at the licensed premises.

1534 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
1535 of wine purchased at the licensed premises, or brought onto the licensed premises in
1536 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

1537 ~~[(4) A patron may transport beer between the sublicensed premises of an arena
1538 licensee's accompanying sublicenses, if the patron transports the beer from and to an area of
1539 each sublicensed premises:]~~

1540 ~~[(a) that is adjacent to the other; and]~~

1541 ~~[(b) where the consumption of beer is permitted.]~~

1542 [(5)] (4) Neither a patron nor a retail licensee violates this section if:

1543 (a) the patron is in shared seating; and

1544 (b) the patron purchased the patron's alcoholic beverage from a restaurant licensee

1545 whose licensed premises include the shared seating area the patron is in.

1546 Section 16. Section **32B-5-310** is amended to read:

1547 **32B-5-310. Notifying department of change in ownership -- Inventory transfers --**
1548 **Interim alcoholic beverage management agreements.**

1549 (1) The commission may suspend or revoke a retail license if the retail licensee does
1550 not [~~immediately~~] notify the department, within 60 days after the day on which the change
1551 occurs, of a change in:

1552 (a) ownership of the retail license;

1553 (b) the entity that manages the retail licensee or a premises licensed under this chapter;

1554 (c) for a corporate owner, the:

1555 (i) corporate officers or directors of the retail licensee; or

1556 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1557 corporation; or

1558 (d) for a limited liability company:

1559 (i) managers of the limited liability company; or

1560 (ii) members owning at least 20% of the limited liability company.

1561 (2) Notwithstanding any other provision of this title, in connection with an event
1562 described in Section **32B-8a-202** or an asset sale of a retail licensee, the parties to the
1563 transaction may enter into an inventory transfer agreement.

1564 (3) A retail licensee may enter into an interim alcoholic beverage management
1565 agreement that provides:

1566 (a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the
1567 current retail licensee; and

1568 (b) for the duration of the agreement, the current retail licensee:

1569 (i) shall comply with the requirements of this title that are applicable to the retail
1570 license; and

1571 (ii) in accordance with this title, is subject to disciplinary action by the commission for
1572 any violation of this title.

1573 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1574 department may make rules governing the requirements of:

1575 (a) an inventory transfer agreement; and

1576 (b) an interim alcoholic beverage management agreement.

1577 Section 17. Section **32B-6-605** is amended to read:

1578 **32B-6-605. Specific operational requirements for on-premise banquet license.**

1579 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1580 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
1581 shall comply with this section.

1582 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1583 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1584 (i) an on-premise banquet licensee;

1585 (ii) individual staff of an on-premise banquet licensee; or

1586 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

1587 (2) An on-premise banquet licensee shall comply with Subsections **32B-5-301**(4) and
1588 (5) for the entire premises of the hotel, resort facility, sports center, convention center, or
1589 performing arts facility that is the basis for the on-premise banquet license.

1590 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
1591 shall provide the department with advance notice of a scheduled banquet in accordance with
1592 rules made by the commission.

1593 (b) Any of the following may conduct a random inspection of a banquet:

1594 (i) an authorized representative of the commission or the department; or

1595 (ii) a law enforcement officer.

1596 (4) (a) An on-premise banquet licensee is not subject to Section **32B-5-302**, but shall
1597 make and maintain the records the commission or department requires.

1598 (b) Section **32B-1-205** applies to a record required to be made or maintained in
1599 accordance with this Subsection (4).

1600 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
1601 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
1602 location of the banquet.

1603 (b) Except as provided in [~~Subsections~~] Subsection **32B-5-307**(4) [~~and (5)~~], a host of a
1604 banquet, a patron, or a person other than the on-premise banquet licensee or staff of the
1605 on-premise banquet licensee, may not remove an alcoholic product from the premises of the
1606 banquet.

1607 (c) Notwithstanding Subsection 32B-5-307(3) and except as provided in [Subsections]
1608 Subsection 32B-5-307(4) [~~and (5)~~], a patron at a banquet may not bring an alcoholic product
1609 into or onto, or remove an alcoholic product from, the premises of a banquet.

1610 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at
1611 the banquet following the conclusion of the banquet.

1612 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

1613 (i) destroy an opened and unused alcoholic product that is not saleable, under
1614 conditions established by the department; and

1615 (ii) return to the on-premise banquet licensee's approved locked storage area any:

1616 (A) opened and unused alcoholic product that is saleable; and

1617 (B) unopened container of an alcoholic product.

1618 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed container
1619 of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

1620 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
1621 locked storage area; and

1622 (ii) may use the alcoholic product at more than one banquet.

1623 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not
1624 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
1625 on-premise banquet licensee's banquet and room service activities.

1626 (8) An on-premise banquet licensee:

1627 (a) may provide room service in portions described in Section 32B-5-304;

1628 (b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in
1629 connection with room service any day during a period that:

1630 (i) begins at 1 a.m.; and

1631 (ii) ends at 9:59 a.m.; and

1632 (c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic
1633 product free of charge per guest reservation, per guest room, if the alcoholic product:

1634 (i) is not a spirituous liquor; and

1635 (ii) is in an unopened container not to exceed 750 milliliters.

1636 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
1637 more than two alcoholic products of any kind at a time before the patron.

1638 (b) A patron may not have more than one spirituous liquor drink at a time before the
1639 patron.

1640 (c) An individual portion of wine is considered to be one alcoholic product under
1641 Subsection (9)(a).

1642 (10) (a) An on-premise banquet licensee shall supervise and direct a person involved in
1643 the sale, offer for sale, or furnishing of an alcoholic product.

1644 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
1645 shall complete an alcohol training and education seminar.

1646 (11) A staff person of an on-premise banquet licensee shall remain at the banquet at all
1647 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the
1648 banquet.

1649 (12) (a) Room service of an alcoholic product to a guest room or privately owned
1650 dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise
1651 banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

1652 (b) An alcoholic product may not be left outside a guest room or privately owned
1653 dwelling unit for retrieval by a guest or resident.

1654 (13) An on-premise banquet licensee may not maintain a minibar.

1655 Section 18. Section **32B-6-703** is amended to read:

1656 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

1657 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
1658 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
1659 beer retailer license from the commission in accordance with this part.

1660 (2) (a) The commission may issue an on-premise beer retailer license to establish
1661 on-premise beer retailer licensed premises at places and in numbers as the commission
1662 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
1663 premises operated as an on-premise beer retailer.

1664 (b) At the time that the commission issues an on-premise beer retailer license, the
1665 commission shall designate whether the on-premise beer retailer is a tavern.

1666 (c) The commission may change its designation of whether an on-premise beer retailer
1667 is a tavern in accordance with rules made by the commission.

1668 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission

1669 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
1670 beer for consumption on the establishment's premises.

1671 (ii) In making a determination under this Subsection (2)(d), the commission shall
1672 consider:

1673 (A) whether the on-premise beer retailer will operate as one of the following:

1674 (I) a beer bar;

1675 (II) a parlor;

1676 (III) a lounge;

1677 (IV) a cabaret; or

1678 (V) a nightclub;

1679 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

1680 (I) whether the on-premise beer retailer will sell food in the establishment; and

1681 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
1682 will exceed the revenue of the sale of food;

1683 (C) whether full meals including appetizers, main courses, and desserts will be served;

1684 (D) the square footage and seating capacity of the premises;

1685 (E) what portion of the square footage and seating capacity will be used for a dining
1686 area in comparison to the portion that will be used as a lounge or bar area;

1687 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
1688 full meals, except a person that is located on the premises of a hotel or resort facility may use
1689 the culinary facilities of the hotel or resort facility;

1690 (G) whether the entertainment provided on the premises of the beer retailer will be
1691 suitable for minors; and

1692 (H) the beer retailer management's ability to manage and operate an on-premise beer
1693 retailer license including:

1694 (I) management experience;

1695 (II) past beer retailer management experience; and

1696 (III) the type of management scheme that will be used by the beer retailer.

1697 [~~(e) On or after March 1, 2012:~~]

1698 (e) (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

1699 (A) own or operate a recreational amenity and maintain at least 70% of the person's

1700 total gross revenues from business directly related to ~~[a]~~ the recreational amenity on or directly
1701 adjoining the licensed premises of the beer retailer, except that a person may include gross
1702 revenue from business directly related to a recreational amenity that is owned or operated by a
1703 political subdivision if the person has a contract meeting the requirements of Subsection
1704 (2)(e)(iv) with the political subdivision; ~~[or]~~

1705 (B) ~~[have]~~ own or operate a recreational amenity on or directly adjoining the licensed
1706 premises of the beer retailer and maintain at least 70% of the person's total gross revenues from
1707 the sale of food~~[-];~~ or

1708 (C) if the licensed premises of the on-premise beer retailer is on or directly adjoining a
1709 ski resort on January 1, 2021, obtain the consent of the ski resort to operate as an on-premise
1710 beer retailer that is not a tavern and maintain at least 70% of the person's total gross revenues
1711 from the sale of food.

1712 (ii) The commission may not license a person as an on-premise beer retailer if the
1713 person does not:

1714 (A) meet the requirements of Subsection (2)(e)(i); or

1715 (B) operate as a tavern.

1716 (iii) A person who~~[, after August 1, 2011,]~~ applies for an on-premise beer retailer
1717 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
1718 have or construct facilities for the dispensing or storage of an alcoholic product that do not
1719 meet the requirements of Subsection [32B-6-905\(11\)\(a\)\(ii\)](#).

1720 (iv) A contract described in Subsection (2)(e)(i)(A) shall:

1721 (A) allow the beer retailer to include the total gross revenue from operations of the
1722 recreational amenity in the beer retailer's total gross receipts for purposes of Subsection
1723 (2)(e)(i)(A); and

1724 (B) give the department the authority to audit financial information of the political
1725 subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A)
1726 are met.

1727 (3) Subject to Section [32B-1-201](#):

1728 (a) ~~[The]~~ the commission may not issue a total number of on-premise beer retailer
1729 licenses that are taverns that at any time exceeds the number determined by dividing the
1730 population of the state by 73,666~~[-];~~ and

1731 (b) [~~The~~] the commission may issue a seasonal on-premise beer retailer license for a
1732 tavern in accordance with Section 32B-5-206.

1733 (4) (a) Unless otherwise provided in Subsection (4)(b):

1734 (i) only one on-premise beer retailer license is required for each building or resort
1735 facility owned or leased by the same person; and

1736 (ii) a separate license is not required for each retail beer dispensing location in the
1737 same building or on the same resort premises owned or operated by the same person.

1738 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
1739 building or resort facility operates in the same manner.

1740 (ii) If each retail beer dispensing location does not operate in the same manner:

1741 (A) one on-premise beer retailer license designated as a tavern is required for the
1742 locations in the same building or on the same resort premises that operate as a tavern; and

1743 (B) one on-premise beer retailer license is required for the locations in the same
1744 building or on the same resort premises that do not operate as a tavern.

1745 Section 19. Section 32B-6-1004 is amended to read:

1746 **32B-6-1004. Specific licensing requirements for a hospitality amenity license.**

1747 (1) To obtain a hospitality amenity license a person shall comply with Chapter 5, Part
1748 2, Retail Licensing Process.

1749 (2) (a) A hospitality amenity license expires on October 31 of each year.

1750 (b) To renew a person's hospitality amenity license, a person shall comply with the
1751 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
1752 September 30.

1753 (3) (a) The nonrefundable application fee for a hospitality amenity license is \$330.

1754 (b) The initial license fee for a hospitality amenity license is \$2,000.

1755 (c) The renewal fee for a hospitality amenity license is \$1,000.

1756 (4) The bond amount required for a hospitality amenity license is the penal sum of
1757 \$10,000.

1758 (5) Notwithstanding Subsection 32B-5-303(3), the [~~department~~] commission may
1759 approve an additional location in or on the licensed premises of a hospitality amenity licensee
1760 from which the hospitality amenity licensee may store, sell, offer for sale, furnish, or allow the
1761 consumption of an alcoholic product that is not included in the person's original application

1762 only:

1763 (a) upon proper application by a hospitality amenity licensee; and

1764 (b) in accordance with guidelines the commission approves.

1765 Section 20. Section **32B-8-501** is amended to read:

1766 **32B-8-501. Enforcement of qualifications for resort license or sublicense.**

1767 (1) The commission or department may not take an action described in Subsection (2)

1768 with regard to a resort license unless the person who is found not to meet the qualifications of

1769 Subsection **32B-1-304(1)** is one of the following who is engaged in the management of the

1770 resort:

1771 (a) a partner;

1772 (b) a managing agent;

1773 (c) a manager;

1774 (d) an officer;

1775 (e) a director;

1776 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the

1777 corporation;

1778 (g) a member who owns at least 20% of the limited liability company; or

1779 (h) a person employed to act in a supervisory or managerial capacity for the resort

1780 licensee.

1781 (2) Subsection (1) applies to:

1782 (a) the commission immediately suspending or revoking a resort license, if after the
1783 day on which the resort license is issued, a person described in Subsection **32B-1-304(7)(a)(i)**:

1784 (i) is found to have been convicted of an offense described in Subsection

1785 **32B-1-304(1)(a)** before the commission issues the resort license; or

1786 (ii) on or after the day on which the commission issues the resort license:

1787 (A) is convicted of an offense described in Subsection **32B-1-304(1)(a)(i)** or (ii); or

1788 (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined
1789 influence of alcohol and a drug; and

1790 (II) was convicted of driving under the influence of alcohol, a drug, or the combined
1791 influence of alcohol and a drug within five years before the day on which the person is

1792 convicted of the offense described in Subsection (2)(b)(ii)(A);

1793 (b) the director taking an emergency action by immediately suspending the operation of
 1794 a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for
 1795 the period during which the criminal matter is being adjudicated if a person described in
 1796 Subsection [32B-1-304\(7\)\(a\)](#):

1797 (i) is arrested on a charge for an offense described in Subsection [32B-1-304\(1\)\(a\)\(i\)](#) or
 1798 (ii); or

1799 (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,
 1800 a drug, or the combined influence of alcohol and a drug; and

1801 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
 1802 influence of alcohol and a drug within five years before the day on which the person is arrested
 1803 on a charge described in Subsection (2)(b)(ii)(A); and

1804 (c) the commission suspending or revoking a resort license because a person to whom
 1805 the commission issues a resort license under this chapter no longer possesses the qualifications
 1806 required by this title for obtaining the resort license.

1807 (3) This section does not prevent the commission from suspending or revoking a
 1808 sublicense that is part of a resort license if a person employed to act in a supervisory or
 1809 managerial capacity for a sublicense no longer meets the qualification requirements in the
 1810 provisions applicable to the sublicense.

1811 Section 21. Section [32B-8a-102](#) is amended to read:

1812 **[32B-8a-102. Definitions.](#)**

1813 As used in this chapter:

1814 (1) (a) "Alcohol license" means:

1815 [~~(a)~~] (i) a retail license;

1816 [~~(b)~~] (ii) an off-premise beer retailer state license;

1817 [~~(c)~~] (iii) a brewery manufacturing license;

1818 [~~(d)~~] (iv) a distillery manufacturing license;

1819 [~~(e)~~] (v) a winery manufacturing license; and

1820 [~~(f)~~] (vi) a special use permit that is an industrial or manufacturing use permit.

1821 (b) "Alcohol license" does not include a:

1822 (i) master full-service restaurant license;

1823 (ii) master limited-service restaurant license; or

1824 (iii) master off-premise beer retailer state license.

1825 (2) "Business entity" means a corporation, partnership, limited liability company, sole
1826 proprietorship, or similar entity.

1827 (3) "Transfer fee" means a fee described in Section [32B-8a-303](#).

1828 (4) "Transferee or buyer" means a person who intends to hold an alcohol license after
1829 the transfer of the alcohol license if the transfer is approved by the commission under this
1830 chapter.

1831 (5) "Transferor or seller" means an alcohol licensee who intends to transfer an alcohol
1832 license held by the alcohol licensee if the commission approves the transfer under this chapter.

1833 Section 22. Section **32B-8a-201** is amended to read:

1834 **32B-8a-201. Transferability of alcohol license.**

1835 (1) (a) An alcohol license is separate from other property of an alcohol licensee.

1836 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the
1837 existence of any type of alcohol license.

1838 (c) Except as provided in this chapter, a person may not:

1839 (i) transfer an alcohol license from one location to another location; or

1840 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
1841 alcohol license to another person whether for monetary gain or not.

1842 (d) If approved by the commission and subject to the requirements of this chapter, an
1843 alcohol licensee may transfer the alcohol license:

1844 (i) from the alcohol licensee to another person, regardless of whether the alcohol
1845 license is for the same premises; and

1846 (ii) from one premises of the alcohol licensee to another premises of the alcohol
1847 licensee.

1848 (2) (a) The commission may not approve the transfer of an alcohol license that results
1849 in a transferee or buyer holding a different type of alcohol license than is held by the transferor
1850 or seller.

1851 (b) Unless the alcohol license is a bar establishment license, the commission may not
1852 approve the transfer of an alcohol license from one location to another location, if the location
1853 of the premises to which the alcohol license would be transferred is in a different county than
1854 the location of the licensed premises of the alcohol license being transferred.

1855 (3) The commission may not approve the transfer of an alcohol license if the
 1856 transferee~~[-(a)]~~ or buyer is not eligible to hold the same type of alcohol license as the alcohol
 1857 license to be transferred at the premises to which the alcohol license would be transferred~~[, or]~~.

1858 ~~[(b) is delinquent in the payment of any of the following that arises in full or in part out
 1859 of the operation of a alcohol license:]~~

1860 ~~[(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or]~~

1861 ~~[(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.]~~

1862 ~~[(4) This chapter does not apply to a:]~~

1863 ~~[(a) master full-service restaurant license;]~~

1864 ~~[(b) master limited-service restaurant license; or]~~

1865 ~~[(c) master off-premise beer retailer state license.]~~

1866 (4) The commission may not approve the transfer of an alcohol license unless the
 1867 transferee or buyer attests, subject to the penalty for making a false material statement under
 1868 Section 32B-4-504, that the transferee or buyer is in compliance with:

1869 (a) federal tax laws;

1870 (b) Title 35A, Chapter 4, Employment Security Act; and

1871 (c) Title 59, Revenue and Taxation.

1872 (5) The commission may not approve the transfer of an alcohol license unless the
 1873 transferor or seller attests, subject to the penalty for making a false material statement under
 1874 Section 32B-4-504, that the transferor or seller is not delinquent on any lease obligation related
 1875 to the licensed premises for the alcohol license the transferor or seller is transferring.

1876 Section 23. Section **32B-8a-202** is amended to read:

1877 **32B-8a-202. Effect of transfer of ownership of business entity.**

1878 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is
 1879 acquired by or transferred to one or more persons who did not hold the ownership of 51% of
 1880 those shares of stock on the date an alcohol license is issued to the corporation, the corporation
 1881 shall comply with this chapter to transfer the alcohol license to the corporation as if the
 1882 corporation is newly constituted.

1883 (b) When there is a new general partner or when the ownership of 51% or more of the
 1884 capital or profits of a limited partnership is acquired by or transferred to one or more persons as
 1885 general or limited partners and who did not hold ownership of 51% or more of the capital or

1886 profits of the limited partnership on the date an alcohol license is issued to the limited
1887 partnership, the limited partnership shall comply with this chapter to transfer the alcohol
1888 license to the limited partnership as if the limited partnership is newly constituted.

1889 (c) When the ownership of 51% or more of the interests in a limited liability company
1890 is acquired by or transferred to one or more persons as members who did not hold ownership of
1891 51% or more of the interests in the limited liability company on the date an alcohol license is
1892 issued to the limited liability company, the limited liability company shall comply with this
1893 chapter to transfer the alcohol license to the limited liability company as if the limited liability
1894 company is newly constituted.

1895 (2) A business entity shall comply with this section within 60 days after the day on
1896 which ~~[the event]~~ a sale or transfer described in Subsection (1) occurs.

1897 Section 24. Section **32B-8a-203** is amended to read:

1898 **32B-8a-203. Operational requirements for transferee or buyer.**

1899 (1) (a) A transferee or buyer shall begin operations of the alcohol license within 30
1900 days after the day on which a transfer is approved by the commission, except that:

1901 (i) the department may grant an extension of this time period not to exceed 30 days;
1902 and

1903 (ii) after the extension is authorized by the department under Subsection (1)(a)(i), the
1904 commission may grant one or more additional extensions not to exceed, in the aggregate, seven
1905 months from the day on which the commission approves the transfer, if the transferee or buyer
1906 can demonstrate to the commission that the transferee or buyer:

1907 (A) cannot begin operations because the transferee or buyer is improving the licensed
1908 premises;

1909 (B) has obtained a building permit for the improvements described in Subsection
1910 (1)(a)(ii)(A), if the respective local government entity requires a building permit for the
1911 improvements; and

1912 (C) is working expeditiously to complete the improvements to the licensed premises.

1913 (b) A transferee or buyer is considered to have begun operations of the alcohol license
1914 if the transferee or buyer:

1915 (i) has a licensed premises that is open for business;

1916 (ii) (A) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed

1917 premises described in Subsection (1)(b)(i);

1918 (B) manufactures an alcoholic product on the licensed premises described in

1919 Subsection (1)(b)(i); or

1920 (C) engages in an industrial or manufacturing pursuit containing alcohol on the

1921 licensed premises described in Subsection (1)(b)(i); and

1922 (iii) has a valid business license.

1923 (2) If a transferee or buyer fails to begin operations of the alcohol license within the

1924 time period required by Subsection (1), the following are automatically forfeited effective

1925 immediately:

1926 (a) the alcohol license; and

1927 (b) the alcohol license fee.

1928 (3) A transferee or buyer shall begin operations of the alcohol license at the location to

1929 which the transfer applies before the transferee or buyer may seek a transfer of the alcohol

1930 license to a different location.

1931 (4) Notwithstanding Subsection (1), the commission may not issue a conditional

1932 license unless the requirements of Section 32B-5-205 are met, except that the time periods

1933 required by this section supersede the time period provided in Section 32B-5-205.

1934 Section 25. Section 32B-8a-302 is amended to read:

1935 **32B-8a-302. Application -- Approval process.**

1936 (1) To obtain the transfer of an alcohol license from an alcohol licensee, the transferee

1937 or buyer shall file a transfer application with the department that includes:

1938 (a) an application in the form provided by the department;

1939 (b) a statement as to whether the consideration, if any, to be paid to the transferor or

1940 seller includes payment for transfer of the alcohol license; and

1941 [~~(c) a statement executed under penalty of perjury that the consideration as set forth in~~

1942 ~~the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder;~~

1943 ~~and]~~

1944 [~~(d)~~] (c) (i) an application fee of \$300; and

1945 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

1946 [~~(2) If the intended transfer of an alcohol license involves consideration, at least 10~~

1947 ~~days before the commission may approve the transfer, the department shall post a notice of the~~

1948 intended transfer on the Public Notice Website created in Section ~~63F-1-701~~ that states the
1949 following:]

1950 [~~(a) the name of the transferor;~~]

1951 [~~(b) the name and address of the business currently associated with the alcohol~~
1952 license;]

1953 [~~(c) instructions for filing a claim with the escrow holder; and]~~

1954 [~~(d) the projected date that the commission may consider the transfer application.]~~

1955 [~~(3)~~] (2) (a) (i) Before the commission may approve the transfer of an alcohol license,
1956 the department shall conduct an investigation and may hold public hearings to gather
1957 information and make recommendations to the commission as to whether the transfer of the
1958 alcohol license should be approved.

1959 (ii) The department shall forward the information and recommendations described in
1960 this Subsection [~~(3)(a)~~] (2)(a) to the commission to aid in the commission's determination.

1961 (b) Before approving a transfer, the commission shall:

1962 (i) determine that the transferee or buyer filed a complete application;

1963 (ii) determine that the transferee or buyer is eligible to hold the type of alcohol license
1964 that is to be transferred at the premises to which the alcohol license would be transferred;

1965 (iii) determine that the transferee [~~is not delinquent in the payment of an amount~~
1966 ~~described in]~~ or buyer has made the attestation described in Subsection ~~32B-8a-201~~ [~~(3)~~](4);

1967 (iv) determine that the transferee is not disqualified under Section ~~32B-1-304~~;

1968 (v) consider the locality within which the proposed licensed premises is located,
1969 including:

1970 (A) the factors listed in Section ~~32B-5-203~~ for the issuance of a retail license;

1971 (B) the factors listed in Section ~~32B-7-404~~ for the issuance of an off-premise beer
1972 retailer state license;

1973 (C) the factors listed in Section ~~32B-11-206~~ for the issuance of a manufacturing
1974 license; and

1975 (D) the factors listed in Section ~~32B-10-204~~ for the issuance of a special use permit
1976 that is an industrial and manufacturing use permit;

1977 (vi) consider the [~~transferee's~~] transferee or buyer's ability to manage and operate the
1978 retail license to be transferred, including:

- 1979 (A) the factors listed in Section 32B-5-203 for the issuance of a retail license;
- 1980 (B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer
- 1981 retailer state license;
- 1982 (C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing
- 1983 license; and
- 1984 (D) the factors listed in Section 32B-10-204 for the issuance of a special use permit
- 1985 that is an industrial and manufacturing use permit;
- 1986 (vii) consider the nature or type of alcohol licensee operation of the transferee or buyer,
- 1987 including:
- 1988 (A) the factors listed in Section 32B-5-203 for the issuance of a retail license;
- 1989 (B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer
- 1990 retailer state license;
- 1991 (C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing
- 1992 license; and
- 1993 (D) the factors listed in Section 32B-10-204 for the issuance of a special use permit
- 1994 that is an industrial and manufacturing use permit; and
- 1995 ~~[(viii) if the transfer involves consideration, determine that the transferee and transferor~~
- 1996 ~~have complied with Part 4, Protection of Creditors; and]~~
- 1997 ~~[(ix)]~~ (viii) consider any other factor the commission considers necessary.
- 1998 ~~[(4)]~~ (3) Except as otherwise provided in Section 32B-1-202, the commission may not
- 1999 approve the transfer of an alcohol license to premises that do not meet the proximity
- 2000 requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as
- 2001 applicable.

2002 Section 26. Section 32B-8a-303 is amended to read:

2003 **32B-8a-303. Transfer fees.**

- 2004 (1) Except as otherwise provided in this section, the department shall charge the
- 2005 following transfer fees:
- 2006 (a) for a transfer of an alcohol license from an alcohol licensee to another person, the
- 2007 transfer fee equals the initial license fee amount specified in the relevant chapter or part for the
- 2008 type of alcohol license that is being transferred;
- 2009 (b) for the transfer of an alcohol license from one premises to another premises of the

2010 same alcohol licensee, the transfer fee [~~equals the renewal fee amount specified in the relevant~~
2011 ~~chapter or part for the type of alcohol license that is being transferred~~] is \$300;

2012 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section
2013 [32B-8a-202](#), the transfer fee equals the renewal fee amount specified in the relevant chapter or
2014 part for the type of alcohol license that is being transferred;

2015 (d) for a transfer of an alcohol license to include the parent or adult child of an alcohol
2016 licensee, when no consideration is given for the transfer, the transfer fee is one-half of the
2017 amount described in Subsection (1)(a); and

2018 (e) for one of the following transfers, the transfer fee is one-half of the amount
2019 described in Subsection (1)(a):

2020 (i) an alcohol license of one spouse to the other spouse when the transfer application is
2021 made before the entry of a final decree of divorce;

2022 (ii) an alcohol license of a deceased alcohol licensee to:

2023 (A) the one or more surviving partners of the deceased alcohol licensee;

2024 (B) the executor, administrator, or conservator of the estate of the deceased alcohol
2025 licensee; or

2026 (C) the surviving spouse of the deceased alcohol licensee, if the deceased alcohol
2027 licensee leaves no estate to be administered;

2028 (iii) an alcohol license of an incompetent person or conservatee by or to the
2029 conservator or guardian for the incompetent person or conservatee who is the alcohol licensee;

2030 (iv) an alcohol license of a debtor in a bankruptcy case by or to the trustee of a
2031 bankrupt estate of the alcohol licensee;

2032 (v) an alcohol license of a person for whose estate a receiver is appointed may be
2033 transferred by or to a receiver of the estate of the alcohol licensee;

2034 (vi) an alcohol license of an assignor for the benefit of creditors by or to an assignee for
2035 the benefit of creditors of a licensee with the consent of the assignor;

2036 (vii) an alcohol license transferred to a revocable living trust if the alcohol licensee is
2037 the trustee of the revocable living trust;

2038 (viii) an alcohol license transferred between partners when no new partner is being
2039 licensed;

2040 (ix) an alcohol license transferred between corporations whose outstanding shares of

2041 stock are owned by the same individuals;

2042 (x) upon compliance with Section 32B-8a-202, an alcohol license to a corporation

2043 whose entire stock is owned by:

2044 (A) the transferor or seller; or

2045 (B) the spouse of the transferor;

2046 (xi) upon compliance with Section 32B-8a-202, an alcohol license to a limited liability

2047 company whose entire membership consists of:

2048 (A) the transferor or seller; or

2049 (B) the spouse of the transferor or seller; or

2050 (xii) an alcohol license transferred from a corporation to a person who owns, or whose

2051 spouse owns, the entire stock of the corporation.

2052 (2) If there are multiple and simultaneous transfers of alcohol licenses under Section

2053 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the alcohol

2054 licenses being transferred.

2055 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under

2056 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the

2057 subsequent transfer is of 51% of the stock in a corporation to which an alcohol license is

2058 transferred by an alcohol licensee or the spouse of an alcohol licensee.

2059 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's

2060 adult child or adult grandchild, the transfer fee is one-half of the amount described in

2061 Subsection (1)(a).

2062 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

2063 Section 27. Section 32B-8a-501 is amended to read:

2064 **32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

2065 (1) An alcohol licensee may not enter into any agreement under which the alcohol

2066 licensee pledges the alcohol license as security for a loan or as security for the fulfillment of

2067 any agreement.

2068 (2) An alcohol licensee may not transfer an alcohol license if the transfer is to:

2069 (a) satisfy a loan or to fulfill an agreement entered into more than 90 days before the

2070 day on which the transfer application is filed;

2071 (b) gain or establish a preference to or for any creditor of the transferor or seller, except

2072 as provided by Section 32B-8a-202; or

2073 (c) defraud or injure a creditor of the transferor or seller.

2074 (3) An alcohol licensee may not transfer a bar establishment license in a manner that
2075 circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).

2076 (4) An alcohol licensee may not transfer an alcohol license except in accordance with
2077 this chapter.

2078 Section 28. Section 32B-8d-104 is amended to read:

2079 **32B-8d-104. General operational requirements for a sublicense.**

2080 (1) Except as provided in Subsections (2) [~~and (3)~~] through (4), a person operating
2081 under a sublicense is subject to the operational requirements under the provisions applicable to
2082 the sublicense.

2083 (2) Notwithstanding a requirement in the provisions applicable to the sublicense, a
2084 person operating under the sublicense is not subject to a requirement that a certain percentage
2085 of the gross receipts for the sublicense be from the sale of food, except to the extent that the
2086 gross receipts for the sublicense are included in calculating the percentages under Subsections
2087 32B-8-401(3), 32B-8b-301(5), and 32B-8c-301(3).

2088 (3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a
2089 sublicensed premises operated under a full-service restaurant sublicense or a limited-service
2090 restaurant sublicense is considered a grandfathered bar structure if the sublicense is a
2091 sublicense to a resort license issued on or before December 31, 2010.

2092 (4) Notwithstanding Section 32B-5-307:

2093 (a) a patron may transport beer between the sublicensed premises of an arena licensee's
2094 accompanying sublicenses, if the patron transports the beer from and to an area of each
2095 sublicensed premises:

2096 (i) that is adjacent to the other; and

2097 (ii) where the consumption of beer is permitted; and

2098 (b) staff of a sublicensee or person otherwise operating under a sublicense of a hotel
2099 licensee or a resort licensee may transport an alcoholic beverage from and to sublicensed
2100 premises of the hotel license or resort license, if:

2101 (i) the sublicensee is:

2102 (A) a full-service restaurant sublicensee;

2103 (B) a limited-service restaurant sublicensee;
 2104 (C) a bar establishment sublicensee;
 2105 (D) a beer-only restaurant sublicensee; or
 2106 (E) an on-premise beer retailer sublicensee;
 2107 (ii) the individual staff carries the alcoholic beverage:
 2108 (A) from the sublicensed premises of a sublicensee described in Subsection (4)(b)(i);
 2109 (B) briefly through an unlicensed area or briefly through sublicensed premises on
 2110 which the type of alcoholic beverage that the individual staff carries is permitted; and
 2111 (C) to the sublicensed premises of a sublicensee described in Subsection (4)(b)(i); and
 2112 (iii) the individual staff at all times stays within:
 2113 (A) the boundary of the hotel, as defined in Section [32B-8b-102](#); or
 2114 (B) the boundary of the resort building, as defined in Section [32B-8-102](#).
 2115 ~~[(4)]~~ (5) Except as provided in Section [32B-8-502](#), for purposes of interpreting an
 2116 operational requirement imposed by the provisions applicable to a sublicense:
 2117 (a) a requirement imposed on a sublicensee or person operating under a sublicense
 2118 applies to the principal licensee; and
 2119 (b) a requirement imposed on staff of a sublicensee or person operating under a
 2120 sublicense applies to staff of the principal licensee.
 2121 Section 29. Section **32B-11-202** is amended to read:
 2122 **32B-11-202. Exemption for manufacture of fermented beverage.**
 2123 (1) As used in this section, "fermented alcoholic beverage" means:
 2124 (a) beer;
 2125 (b) heavy beer; or
 2126 (c) wine.
 2127 (2) An individual may without being licensed under this chapter manufacture ~~[in the~~
 2128 ~~individual's personal residence]~~ a fermented alcoholic beverage if:
 2129 (a) the individual ferments the alcoholic beverage:
 2130 (i) in the individual's personal residence; or
 2131 (ii) (A) on the premises of a winery manufacturing license or brewery manufacturing
 2132 license; and
 2133 (B) under the supervision of a winery manufacturing licensee or brewery

2134 manufacturing licensee;

2135 (b) the individual is 21 years [~~of age~~] old or older;

2136 [~~(b)~~] (c) the individual manufactures no more than:

2137 (i) 100 gallons in a calendar year, if there is one individual that is 21 years [~~of age~~] old

2138 or older residing in the household; or

2139 (ii) 200 gallons in a calendar year, if there are two or more individuals who are 21

2140 years [~~of age~~] old or older residing in the household;

2141 [~~(c)~~] (d) the fermented alcoholic beverage is manufactured and used for personal or

2142 family use and consumption, including use at an organized event where fermented alcoholic

2143 beverages are judged as to taste and quality; and

2144 [~~(d)~~] (e) the fermented alcoholic beverage is not for:

2145 (i) sale or offering for sale; or

2146 (ii) consumption on a licensed premise.

2147 (3) An individual may store a fermented alcoholic beverage manufactured as provided

2148 in Subsection (2) in the individual's personal residence.

2149 (4) A fermented alcoholic beverage manufactured in accordance with Subsection (2)

2150 may be removed from the premises where it is manufactured:

2151 (a) for personal or family use, including use at an organized event where fermented

2152 alcoholic beverages are judged as to taste and quality;

2153 (b) if the fermented alcoholic beverage is transported in compliance with Section

2154 [41-6a-526](#); and

2155 (c) if the fermented alcoholic beverage is removed only in the following quantities:

2156 (i) for personal and family use that is unrelated to an organized event where fermented

2157 alcoholic beverages are judged as to taste and quality, the quantity that may be possessed at one

2158 time is:

2159 (A) one liter of wine for each individual who is 21 years [~~of age~~] old or older residing

2160 in the household;

2161 (B) 72 ounces of heavy beer for each individual who is 21 years [~~of age~~] old or older

2162 residing in the household; or

2163 (C) 72 ounces of beer for each individual who is 21 years [~~of age~~] old or older residing

2164 in the household; and

2165 (ii) for on-premise consumption at an organized event where fermented alcoholic
2166 beverages are judged as to taste and quality, the quantity that may be removed for each
2167 organized event is:

2168 (A) one liter of wine for each wine category in which the individual enters, except that
2169 the individual may not remove wine for more than three categories for the same organized
2170 event;

2171 (B) 72 ounces of heavy beer for each heavy beer category in which the individual
2172 enters, except that the individual may not remove heavy beer for more than three categories for
2173 the same organized event; or

2174 (C) 72 ounces of beer for each beer category in which the individual enters, except that
2175 the individual may not remove beer for more than three categories for the same organized
2176 event.

2177 (5) A partnership, corporation, or association may not manufacture a fermented
2178 alcoholic beverage under this section for personal or family use and consumption without
2179 obtaining a license under this chapter, except that an individual who operates a brewery under
2180 this chapter as an individual owner or in partnership with others, may remove beer from the
2181 brewery for personal or family use in the amounts described in Subsection (2)~~(b)~~(c).

2182 Section 30. Section **32B-11-504** is enacted to read:

2183 **32B-11-504. Department's authority regarding small-brewer status.**

2184 (1) A brewer seeking to obtain small-brewer status shall provide to the department any
2185 documentation or information the department determines necessary to determine if the brewer
2186 is part of a controlled group of breweries.

2187 (2) The department may revoke a brewer's small-brewer status at any time, if the
2188 department determines the brewer does not qualify as a small brewer.

2189 Section 31. Section **32B-12-205** is amended to read:

2190 **32B-12-205. Duties of commission and department before issuing liquor**
2191 **warehousing license.**

2192 (1) (a) Before the commission may issue a warehousing license or approve a change of
2193 location for a licensee's warehouse facility, the department shall conduct an investigation and
2194 may hold public hearings to gather information and make recommendations to the commission
2195 as to whether a liquor warehousing license should be issued or a change of location granted.

2196 (b) The department shall forward the information and recommendations described in
2197 Subsection (1)(a) to the commission to aid in the commission's determination.

2198 (2) Before issuing a liquor warehousing license, the commission shall:

2199 (a) determine that the person filed a complete application and has complied with
2200 Sections [32B-12-202](#) and [32B-12-204](#);

2201 (b) determine that the person is not disqualified under Section [32B-1-304](#);

2202 (c) consider the physical characteristics of the premises where ~~[it is proposed that~~
2203 ~~liquor be warehoused, such as]~~ the person proposes to warehouse liquor, including:

2204 (i) location;

2205 (ii) proximity to transportation; and

2206 (iii) condition, size, and security of the licensed premises;

2207 (d) consider the person's ability to properly use the liquor warehousing license within
2208 the requirements of this title and the commission rules including:

2209 (i) the types of products other than liquor that the person is warehousing;

2210 (ii) the brands of liquor the person intends to warehouse; and

2211 (iii) the means the person intends to use to distribute the liquor; and

2212 (e) consider any other factor the commission considers necessary.

2213 (3) Before approving a liquor warehousing licensee's request to change the location of
2214 the licensee's warehouse facility, the commission shall:

2215 (a) determine that the licensee filed a complete change of location application;

2216 (b) consider the physical characteristics of the premises where the licensee proposes to
2217 warehouse liquor, including:

2218 (i) location;

2219 (ii) proximity to transportation; and

2220 (iii) condition, size, and security of the licensed premises; and

2221 (c) consider any other factor the commission considers necessary.

2222 Section 32. Section **32B-12-207** is enacted to read:

2223 **32B-12-207. Changing location of a warehousing facility.**

2224 (1) A liquor warehousing licensee may change the location of the licensee's
2225 warehousing facility, if the licensee:

2226 (a) submits to the department:

- 2227 (i) a completed change of location application in a form prescribed by the department;
- 2228 (ii) a nonrefundable \$300 application fee;
- 2229 (iii) written consent of the local authority;
- 2230 (iv) a floor plan of the licensee's proposed new warehouse, including the area in which
- 2231 the licensee proposes to store liquor; and
- 2232 (v) any other information the commission or department may require; and
- 2233 (b) begins operation at the new facility within 30 days after the day on which the
- 2234 commission approves the requested change in location.

2235 Section 33. Section **63G-4-102** is amended to read:

2236 **63G-4-102. Scope and applicability of chapter.**

2237 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
2238 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
2239 this chapter apply to every agency of the state and govern:

2240 (a) state agency action that determines the legal rights, duties, privileges, immunities,
2241 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,
2242 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

2243 (b) judicial review of the action.

2244 (2) This chapter does not govern:

2245 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

2246 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to
2247 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
2248 issuance of a tax assessment, except that this chapter governs an agency action commenced by
2249 a taxpayer or by another person authorized by law to contest the validity or correctness of the
2250 action;

2251 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
2252 commutation or termination of a sentence, or to the rescission, termination, or revocation of
2253 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
2254 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah
2255 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
2256 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or
2257 judicial review of the action;

2258 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
2259 student or teacher in a school or educational institution, or judicial review of the action;

2260 (e) an application for employment and internal personnel action within an agency
2261 concerning its own employees, or judicial review of the action;

2262 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
2263 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that
2264 this chapter governs an agency action commenced by the employer, licensee, or other person
2265 authorized by law to contest the validity or correctness of the citation or assessment;

2266 (g) state agency action relating to management of state funds, the management and
2267 disposal of school and institutional trust land assets, and contracts for the purchase or sale of
2268 products, real property, supplies, goods, or services by or for the state, or by or for an agency of
2269 the state, except as provided in those contracts, or judicial review of the action;

2270 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
2271 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution
2272 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or
2273 Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or
2274 judicial review of the action;

2275 (i) the initial determination of a person's eligibility for unemployment benefits, the
2276 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'
2277 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial
2278 determination of a person's unemployment tax liability;

2279 (j) state agency action relating to the distribution or award of a monetary grant to or
2280 between governmental units, or for research, development, or the arts, or judicial review of the
2281 action;

2282 (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah
2283 Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19,
2284 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
2285 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,
2286 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used
2287 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except
2288 that this chapter governs an agency action commenced by a person authorized by law to contest

- 2289 the validity or correctness of the notice or order;
- 2290 (l) state agency action, to the extent required by federal statute or regulation, to be
2291 conducted according to federal procedures;
- 2292 (m) the initial determination of a person's eligibility for government or public
2293 assistance benefits;
- 2294 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
2295 registration;
- 2296 (o) a license for use of state recreational facilities;
- 2297 (p) state agency action under Title 63G, Chapter 2, Government Records Access and
2298 Management Act, except as provided in Section [63G-2-603](#);
- 2299 (q) state agency action relating to the collection of water commissioner fees and
2300 delinquency penalties, or judicial review of the action;
- 2301 (r) state agency action relating to the installation, maintenance, and repair of headgates,
2302 caps, valves, or other water controlling works and weirs, flumes, meters, or other water
2303 measuring devices, or judicial review of the action;
- 2304 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);
- 2305 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and
2306 (ii) an action taken by the Division of Securities under a hearing conducted under
2307 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange
2308 of securities described in Subsection [61-1-11.1\(1\)](#);
- 2309 (u) state agency action relating to water well driller licenses, water well drilling
2310 permits, water well driller registration, or water well drilling construction standards, or judicial
2311 review of the action;
- 2312 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
2313 Antidiscrimination Act; [~~or~~]
- 2314 (w) state environmental studies and related decisions by the Department of
2315 Transportation approving state or locally funded projects, or judicial review of the action[~~;~~]; or
- 2316 (x) the suspension of operations under Subsection [32B-1-304\(3\)](#).
- 2317 (3) This chapter does not affect a legal remedy otherwise available to:
- 2318 (a) compel an agency to take action; or
- 2319 (b) challenge an agency's rule.

2320 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
2321 proceeding, or the presiding officer during an adjudicative proceeding from:

2322 (a) requesting or ordering a conference with parties and interested persons to:

2323 (i) encourage settlement;

2324 (ii) clarify the issues;

2325 (iii) simplify the evidence;

2326 (iv) facilitate discovery; or

2327 (v) expedite the proceeding; or

2328 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
2329 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,
2330 except to the extent that the requirements of those rules are modified by this chapter.

2331 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
2332 this chapter, except as explicitly provided in that section.

2333 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
2334 governed by this chapter.

2335 (6) This chapter does not preclude an agency from enacting a rule affecting or
2336 governing an adjudicative proceeding or from following the rule, if the rule is enacted
2337 according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking
2338 Act, and if the rule conforms to the requirements of this chapter.

2339 (7) (a) If the attorney general issues a written determination that a provision of this
2340 chapter would result in the denial of funds or services to an agency of the state from the federal
2341 government, the applicability of the provision to that agency shall be suspended to the extent
2342 necessary to prevent the denial.

2343 (b) The attorney general shall report the suspension to the Legislature at its next
2344 session.

2345 (8) Nothing in this chapter may be interpreted to provide an independent basis for
2346 jurisdiction to review final agency action.

2347 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good
2348 cause shown, from lengthening or shortening a time period prescribed in this chapter, except
2349 the time period established for judicial review.

2350 (10) Notwithstanding any other provision of this section, this chapter does not apply to

2351 a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
2352 expressly provided in Section 19-1-301.5.

2353 (11) Subsection (2)(w), regarding action taken based on state environmental studies
2354 and policies of the Department of Transportation, applies to any claim for which a court of
2355 competent jurisdiction has not issued a final unappealable judgment or order before May 14,
2356 2019.

2357 Section 34. Section 63I-2-232 is amended to read:

2358 **63I-2-232. Repeal dates -- Title 32B.**

2359 (1) Subsection 32B-1-102(9) is repealed July 1, 2022.

2360 (2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

2361 [~~(3) Section 32B-2-211.1 is repealed November 1, 2020.~~]

2362 [~~(4) Subsection 32B-5-202(4), which addresses license renewal during 2020, is
2363 repealed January 1, 2021.~~]

2364 [~~(5)~~ (3) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

2365 [~~(6)~~ (4) Section 32B-6-205 is repealed July 1, 2022.

2366 [~~(7)~~ (5) Subsection 32B-6-205.2(16) is repealed July 1, 2022.

2367 [~~(8)~~ (6) Section 32B-6-205.3 is repealed July 1, 2022.

2368 [~~(9)~~ (7) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

2369 [~~(10)~~ (8) Section 32B-6-305 is repealed July 1, 2022.

2370 [~~(11)~~ (9) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

2371 [~~(12)~~ (10) Section 32B-6-305.3 is repealed July 1, 2022.

2372 [~~(13)~~ (11) Section 32B-6-404.1 is repealed July 1, 2022.

2373 [~~(14)~~ (12) Section 32B-6-409 is repealed July 1, 2022.

2374 [~~(15)~~ (13) Subsection 32B-6-703(2)(e)[~~(iv)~~](iii) is repealed July 1, 2022.

2375 [~~(16)~~ (14) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

2376 [~~(17)~~ (15) Section 32B-6-905 is repealed July 1, 2022.

2377 [~~(18)~~ (16) Subsection 32B-6-905.1(15) is repealed July 1, 2022.

2378 [~~(19)~~ (17) Section 32B-6-905.2 is repealed July 1, 2022.

2379 [~~(20)~~ (18) Subsection 32B-8d-104(3) is repealed July 1, 2022.

2380 Section 35. Section 77-39-101 is amended to read:

2381 **77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette**

2382 **products, and nicotine products to underage individuals.**

2383 (1) As used in this section:

2384 (a) "Electronic cigarette product" means the same as that term is defined in Section
2385 [76-10-101](#).

2386 (b) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

2387 (c) "Peace officer" means the same as the term is described in Section [53-13-109](#).

2388 [~~(c)~~] (d) "Tobacco product" means the same as that term is defined in Section
2389 [76-10-101](#).

2390 (2) (a) A peace officer~~[, as defined by Title 53, Chapter 13, Peace Officer~~
2391 ~~Classifications,]~~ may investigate the possible violation of:

2392 (i) Section [32B-4-403](#) by requesting an individual under 21 years old to enter into and
2393 attempt to purchase or make a purchase of alcohol from a retail establishment; or

2394 (ii) Section [76-10-114](#) by requesting an individual under 21 years old to enter into and
2395 attempt to purchase or make a purchase from a retail establishment of:

2396 (A) a tobacco product;

2397 (B) an electronic cigarette product; or

2398 (C) a nicotine product.

2399 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2400 supervise, and monitor the individual requested to make the purchase.

2401 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2402 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2403 establishment that the attempted purchaser was under the legal age to purchase:

2404 (i) alcohol; or

2405 (ii) (A) a tobacco product;

2406 (B) an electronic cigarette product; or

2407 (C) a nicotine product.

2408 (d) If a citation or information is issued, the citation or information shall be issued
2409 within seven days ~~[of the purchase]~~ after the day on which the purchase occurs.

2410 (3) (a) If an individual under 18 years old is requested to attempt a purchase, a written
2411 consent of that individual's parent or guardian shall be obtained ~~[prior to that individual~~
2412 ~~participating]~~ before the individual participates in any attempted purchase.

2413 (b) An individual requested by the peace officer to attempt a purchase may:
2414 (i) be a trained volunteer; or
2415 (ii) receive payment, but may not be paid based on the number of successful purchases
2416 of alcohol, tobacco products, electronic cigarette products, or nicotine products.

2417 (4) The individual requested by the peace officer to attempt a purchase and anyone
2418 accompanying the individual attempting a purchase [~~may not during the attempted purchase~~
2419 ~~misrepresent the age of the individual by false or misleading identification documentation in~~
2420 ~~attempting the purchase.~~] may use false identification in attempting the purchase if:

2421 (a) the Department of Public Safety created in Section [53-1-103](#) provides the false
2422 identification;

2423 (b) the false identification:

2424 (i) accurately represents the individual's age; and

2425 (ii) displays a current photo of the individual; and

2426 (c) the peace officer maintains possession of the false identification at all times outside
2427 the attempt to purchase.

2428 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2429 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2430 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, or a
2431 nicotine product if a peace officer directs, supervises, and monitors the individual.

2432 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2433 shall be conducted within a 12-month period:

2434 (i) on a random basis at any one retail establishment location, not more often than four
2435 times for the attempted purchase of alcohol; and

2436 (ii) a minimum of two times at a retail establishment that sells tobacco products,
2437 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco
2438 product, an electronic cigarette product, or a nicotine product.

2439 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
2440 tobacco product, an electronic cigarette product, or a nicotine product under this section if:

2441 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
2442 tobacco product, an electronic cigarette product, or a nicotine product to an individual under
2443 the age established by Section [32B-4-403](#) or [76-10-114](#); and

2444 (ii) the supervising peace officer makes a written record of the grounds for the
2445 reasonable suspicion.

2446 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
2447 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
2448 was made.

2449 (b) The report required by this Subsection (7) shall include:

2450 (i) the name of the supervising peace officer;

2451 (ii) the name of the individual attempting the purchase;

2452 (iii) a photograph of the individual attempting the purchase showing how that
2453 individual appeared at the time of the attempted purchase;

2454 (iv) the name and description of the cashier or proprietor from whom the individual
2455 attempted the purchase;

2456 (v) the name and address of the retail establishment; and

2457 (vi) the date and time of the attempted purchase.

2458 **Section 36. Repealer.**

2459 This bill repeals:

2460 Section **32B-8a-401, Notification of creditors -- Escrow -- Priority of payments.**

2461 Section **32B-8a-402, Duties of escrow holder.**

2462 Section **32B-8a-404, When escrow not required.**