

Senator Derek L. Kitchen proposes the following substitute bill:

BEVERAGE SERVICE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek L. Kitchen

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Alcoholic Beverage Control Act regarding full-service restaurant and bar establishment licensees providing spirituous liquor.

Highlighted Provisions:

This bill:

- ▶ amends provisions under which a full-service restaurant licensee or bar establishment licensee may sell, offer for sale, or furnish a spirituous liquor that is not dispensed through a calibrated metered dispensing system; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-4-422, as last amended by Laws of Utah 2020, Chapter 219

32B-5-304, as last amended by Laws of Utah 2019, Chapter 403

32B-6-406, as last amended by Laws of Utah 2020, Chapter 219



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

Section 1. Section **32B-4-422** is amended to read:

32B-4-422. Unlawful dispensing.

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

(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises [~~except~~] in a quantity that [~~does not exceed~~] exceeds 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department, except that a retail licensee that is a full-service restaurant licensee or a bar establishment licensee may sell, offer for sale, or furnish a primary spirituous liquor that is not dispensed through a calibrated metered dispensing system if the primary spirituous liquor is in a beverage that:

(i) is in an original, sealed container;

(ii) is not more than 12 fluid ounces; and

(iii) contains no more than 10% alcohol by volume or 8% by weight;

(b) sell, offer for sale, or furnish more than:

(i) a total of 2.5 ounces of spirituous liquor per beverage; or

(ii) if the retail licensee is a full-service restaurant licensee or a bar establishment licensee, one beverage described in Subsection (1)(a)(i);

(c) allow a person on the licensed premises to have more than:

(i) a total of 2.5 ounces of spirituous liquor at a time; or

(ii) if the retail licensee is a full-service restaurant licensee or a bar establishment licensee, one beverage described in Subsection (1)(a)(i) at a time; or

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

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

(A) a full-service restaurant licensee;

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

(C) an on-premise banquet licensee;

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

57 (E) a single event permittee.

58 (2) A violation of this section is a class C misdemeanor.

59 Section 2. Section **32B-5-304** is amended to read:

60 **32B-5-304. Portions in which alcoholic product may be sold.**

61 (1) (a) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor
62 only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated
63 metered dispensing system approved by the department in accordance with commission rules
64 adopted under this title, except that~~[-]~~ a retail licensee may sell, offer for sale, or furnish a
65 primary spirituous liquor that is not dispensed through a calibrated metered dispensing system
66 if:

67 ~~[(a) spirituous liquor need not be dispensed through a calibrated metered dispensing~~
68 ~~system if]~~

69 ~~[used as a secondary flavoring ingredient in a beverage subject to the following~~
70 ~~requirements:]~~

71 ~~[(i) the secondary ingredient may be]~~

72 ~~[dispensed only in conjunction with the purchase of a primary spirituous liquor;]~~

73 ~~[(ii) the secondary ingredient may not be]~~

74 ~~[the only spirituous liquor in the beverage;]~~

75 ~~[(iii) the retail licensee shall designate a location where flavorings are stored on the~~
76 ~~floor plan submitted to the department; and]~~

77 ~~[(iv) a flavoring]~~

78 ~~[container shall be plainly and conspicuously labeled "flavorings";]~~

79 ~~[(b) spirituous liquor need not be dispensed through a calibrated metered dispensing~~
80 ~~system if used:]~~

81 ~~[(i) as a flavoring on a dessert; and]~~

82 ~~[(ii) in the preparation of a flaming food dish, drink, or dessert; and]~~

83 (i) the retail licensee is a:

84 (A) full-service restaurant licensee; or

85 (B) bar establishment licensee;

86 (ii) the primary spirituous liquor is in a beverage that:

87 (A) is in an original, sealed container;

88 (B) is not more than 12 fluid ounces; and
89 (C) contains no more than 10% alcohol by volume or 8% by weight; and
90 (iii) the retail licensee sells or offers for sale the beverage that contains the primary
91 spirituous liquor at a price fixed by the commission.

92 (b) A retail licensee may dispense a secondary flavoring ingredient, if the retail
93 licensee:

94 (i) designates a location where the retail licensee stores secondary flavoring ingredients
95 on the floor plan the retail licensee submits to the department; and

96 (ii) clearly and conspicuously labels each secondary flavoring ingredient's container
97 "flavorings".

98 (c) [a] A patron may have no more than:

99 (i) 2.5 ounces of spirituous liquor at a time[-]; or

100 (ii) one beverage described in Subsection (1)(a)(ii) at a time.

101 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
102 individual portion that does not exceed 5 ounces per glass or individual portion.

103 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
104 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

105 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not
106 exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

107 (ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to
108 exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

109 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original
110 container at a price fixed by the commission, except that the original container may not exceed
111 one liter.

112 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
113 original container at a price fixed by the commission, except that the original container may not
114 exceed one liter.

115 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
116 beer for on-premise consumption:

117 (i) in an open original container; and

118 (ii) in a container on draft.

119 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):
120 (i) in a size of container that exceeds two liters; or
121 (ii) to an individual patron in a size of container that exceeds one liter.

122 (c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual
123 patron if the total amount of beer does not exceed 16 ounces.

124 Section 3. Section **32B-6-406** is amended to read:

125 **32B-6-406. Specific operational requirements for a bar establishment license.**

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

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

- 131 (i) a bar establishment licensee;
- 132 (ii) individual staff of a bar establishment licensee; or
- 133 (iii) both a bar establishment licensee and staff of the bar establishment licensee.

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

- 136 (a) measures at least 8-1/2 inches long and 11 inches wide; and
- 137 (b) clearly states that the bar licensee is a bar and that no one under 21 years [~~of age~~
138 old] is allowed.

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

- 141 (i) a record required by Section **32B-5-302**; and
- 142 (ii) a record maintained or used by the bar establishment licensee, as the department
143 requires.

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

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

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

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

151 (ii) ends at 9:59 a.m.

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

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

159 (A) a single drink containing spirituous liquor;

160 (B) a single serving of wine not exceeding five ounces;

161 (C) a single serving of heavy beer;

162 (D) a single serving of beer not exceeding 26 ounces; or

163 (E) a single serving of a flavored malt beverage.

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

165 (A) after all patrons have vacated the premises; or

166 (B) during an emergency.

167 (5) (a) A minor:

168 (i) may not be admitted into, use, or be in the licensed premises of:

169 (A) a dining club licensee unless accompanied by an individual who is 21 years ~~[of~~
170 ~~age]~~ old or older; or

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

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

174 (A) when accompanied by an individual who is 21 years ~~[of age]~~ old or older; and

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

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

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

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

181 licensee; or

182 (ii) handle an alcoholic product.

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

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

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

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

192 (b) A patron may not have two spirituous liquor drinks before the bar establishment
193 licensee patron if one of the spirituous liquor drinks:

194 (i) consists only of the primary spirituous liquor for the other spirituous liquor drink[-];

195 or

196 (ii) is a beverage described in Subsection 32B-5-304(1)(a)(ii).

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

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

203 (a) a set-up charge;

204 (b) a service charge; or

205 (c) a chilling fee.

206 (9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily
207 rent or otherwise temporarily lease ~~[its]~~ the licensee's licensed premises to a person unless:

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

211 (b) the bar establishment licensee takes reasonable steps to ensure that the person

212 complies with this section as provided in Subsection (9)(a).

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

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

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

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