

SB0176S02 compared with SB0176S01

~~text~~ shows text that was in SB0176S01 but was deleted in SB0176S02.

text shows text that was not in SB0176S01 but was inserted into SB0176S02.

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Senator Jerry W. Stevenson proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Steve Waldrip

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines and amends terms;
- ▶ amends proximity requirements for certain arena licensees;
- ▶ amends provisions of the Malted Beverage Act regarding:
 - labeling and packaging; and
 - the power of the commission and department to classify flavored malt beverages;
- ▶ amends the time period in which a retail manager is required to complete a certain

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training program;

- ▶ changes the name of the "Department of Alcoholic Beverage Control" to the "Department of Alcoholic Beverage Services";
- ▶ changes the name of the "Alcoholic Beverage Control Commission" to the "Alcoholic Beverage Services Commission";
- ▶ changes the name of the "Alcoholic Beverage Control Advisory Board" to the "Alcoholic Beverage Services Advisory Board";
- ▶ amends provisions related to the late renewal of a license;
- ▶ amends provisions regarding the liquor control fund;
- ▶ amends provisions regarding the calculation of manufacturer production for school lunch program markup purposes;
- ▶ requires a package agency to submit any information the commission or department may require for the renewal of a package agency agreement;
- ▶ permits a package agency located at a manufacturing facility to, under certain conditions, remain open on a Sunday or on a state or federal holiday;
- ▶ amends a provision related to the furnishing of alcohol to a minor;
- ▶ amends the application requirements for a retail license;
- ▶ amends the requirements for a conditional retail license;
- ▶ prohibits the commission from including certain sublicenses in the total number of licenses the commission has issued for each type of retail license;
- ▶ permits various retail licensees to sell beer for off-premise consumption under certain conditions;
- ▶ makes references to the department's auditing of a retail licensee's records consistent;
- ▶ amends provisions regarding a retail licensee's ceasing of operations and makes the amendment retroactive to March 12, 2020;
- ▶ permits a management agreement under certain conditions;
- ▶ prohibits an off-premise beer retailer from:
 - engaging in or permitting on the licensed premises gambling or fringe gambling;
 - having certain devices or games on the licensed premises; or
 - knowingly allowing certain drug-related activities on the licensed premises;

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- ▶ amends provisions regarding the tracking of enforcement actions to remove references to and requirements related to a repealed section of statute;
- ▶ amends the total number of resort licenses permitted at a time in the state to eight;
- ▶ permits a hotel licensee or person applying for a hotel license to obtain a spa sublicense;
- ▶ amends the number of 72-hour single event permits the director may issue in a calendar year to the same person to 24;
- ~~▶ permits a liquor warehouser licensee to ship to a consumer outside of the state that is at least 21 years old;~~
- ‡ ▶ amends and renumbers the Transfer of Alcohol License Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 32B-1-102, as last amended by Laws of Utah 2021, Chapter 291
- 32B-1-202.1, as enacted by Laws of Utah 2021, Chapter 291
- 32B-1-603, as enacted by Laws of Utah 2010, Chapter 276
- 32B-1-604, as last amended by Laws of Utah 2017, Chapter 455
- 32B-1-605, as last amended by Laws of Utah 2018, Chapter 281
- 32B-1-606, as last amended by Laws of Utah 2018, Chapter 249
- 32B-1-701, as last amended by Laws of Utah 2019, Chapter 12 and renumbered and amended by Laws of Utah 2019, Chapter 403
- 32B-1-704, as renumbered and amended by Laws of Utah 2019, Chapter 403
- 32B-2-101, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-201, as last amended by Laws of Utah 2020, Chapters 352 and 373
- 32B-2-202, as last amended by Laws of Utah 2020, Chapter 219
- 32B-2-203, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-205, as last amended by Laws of Utah 2020, Chapter 352

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32B-2-210, as last amended by Laws of Utah 2018, Chapter 249
32B-2-301, as last amended by Laws of Utah 2021, Chapter 424
32B-2-304, as last amended by Laws of Utah 2021, Chapter 291
32B-2-602, as last amended by Laws of Utah 2011, Chapters 307 and 334
32B-2-605, as last amended by Laws of Utah 2021, Chapter 291
32B-3-202, as last amended by Laws of Utah 2020, Chapter 219
32B-3-205, as last amended by Laws of Utah 2018, Chapters 249 and 329
32B-4-403, as last amended by Laws of Utah 2021, Chapter 291
32B-4-415, as last amended by Laws of Utah 2020, Chapter 219
32B-5-102, as last amended by Laws of Utah 2019, Chapter 403
32B-5-201, as last amended by Laws of Utah 2020, Chapter 219
32B-5-202, as last amended by Laws of Utah 2021, Chapter 291
32B-5-205, as last amended by Laws of Utah 2021, Chapter 291
32B-5-304, as last amended by Laws of Utah 2019, Chapter 403
32B-5-307, as last amended by Laws of Utah 2021, Chapter 291
32B-5-309, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205.2, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205.3, as enacted by Laws of Utah 2017, Chapter 455
32B-6-305, as last amended by Laws of Utah 2019, Chapter 403
32B-6-305.2, as last amended by Laws of Utah 2019, Chapter 403
32B-6-305.3, as enacted by Laws of Utah 2017, Chapter 455
32B-6-404.1, as last amended by Laws of Utah 2018, Chapter 249
32B-6-605, as last amended by Laws of Utah 2021, Chapter 291
32B-6-706, as last amended by Laws of Utah 2017, Chapter 455
32B-6-905, as last amended by Laws of Utah 2019, Chapter 403
32B-6-905.1, as last amended by Laws of Utah 2019, Chapter 403
32B-6-905.2, as last amended by Laws of Utah 2018, Chapter 281
32B-6-1005, as enacted by Laws of Utah 2020, Chapter 219
32B-7-202, as last amended by Laws of Utah 2019, Chapter 403
32B-7-305, as last amended by Laws of Utah 2017, Chapters 163 and 455

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- 32B-8-201, as last amended by Laws of Utah 2020, Chapter 219
- 32B-8b-301, as last amended by Laws of Utah 2020, Chapter 219
- 32B-8c-202, as enacted by Laws of Utah 2020, Chapter 219
- 32B-8d-102, as enacted by Laws of Utah 2020, Chapter 219
- 32B-8d-103, as enacted by Laws of Utah 2020, Chapter 219
- 32B-8d-104, as last amended by Laws of Utah 2021, Chapter 291
- 32B-8d-201, as enacted by Laws of Utah 2020, Chapter 219
- 32B-8d-202, as renumbered and amended by Laws of Utah 2020, Chapter 219
- 32B-8d-203, as renumbered and amended by Laws of Utah 2020, Chapter 219
- 32B-8d-204, as renumbered and amended by Laws of Utah 2020, Chapter 219
- 32B-8d-205, as renumbered and amended by Laws of Utah 2020, Chapter 219
- 32B-9-303, as last amended by Laws of Utah 2012, Chapter 365
- 32B-10-206, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
- 32B-11-208, as last amended by Laws of Utah 2020, Chapter 219
- 32B-11-303, as last amended by Laws of Utah 2016, Chapter 266
- 32B-11-403, as last amended by Laws of Utah 2020, Chapter 219
- 32B-11-503, as last amended by Laws of Utah 2019, Chapter 403
- 32B-11-504, as enacted by Laws of Utah 2021, Chapter 291
- ~~{ 32B-12-301, as last amended by Laws of Utah 2020, Chapter 354~~
- { 34-52-201, as last amended by Laws of Utah 2019, Chapters 371 and 479
- 53-2a-802, as last amended by Laws of Utah 2021, Chapters 184 and 344
- 53-8-105, as last amended by Laws of Utah 2016, Chapter 245
- 53-10-102, as last amended by Laws of Utah 2019, Chapter 33
- 53-10-305, as last amended by Laws of Utah 2017, Chapter 455
- 53F-9-304, as last amended by Laws of Utah 2020, Chapter 161
- 53G-10-406, as last amended by Laws of Utah 2020, Chapters 161 and 408
- 59-1-403, as last amended by Laws of Utah 2021, Chapters 282, 367, 369, and 382
- 59-15-108, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 62A-1-121, as last amended by Laws of Utah 2021, Chapter 344
- 62A-15-401, as last amended by Laws of Utah 2019, Chapter 403
- 63A-17-502, as last amended by Laws of Utah 2021, Chapter 184 and renumbered and

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amended by Laws of Utah 2021, Chapter 344

63A-17-807, as last amended by Laws of Utah 2021, Chapter 184 and renumbered and amended by Laws of Utah 2021, Chapter 344

63B-3-301, as last amended by Laws of Utah 2021, Chapters 280 and 382

63B-5-201, as last amended by Laws of Utah 2021, Chapter 280

63B-10-301, as last amended by Laws of Utah 2008, Chapter 382

63B-11-701, as last amended by Laws of Utah 2008, Chapter 382

63B-13-201, as enacted by Laws of Utah 2004, Chapter 364

63B-14-201, as enacted by Laws of Utah 2005, Chapter 180

63B-15-201, as enacted by Laws of Utah 2006, Chapter 169

63B-16-201, as last amended by Laws of Utah 2020, Chapter 152

63B-17-201, as last amended by Laws of Utah 2020, Chapter 152

63B-18-201, as enacted by Laws of Utah 2009, Chapter 134

63B-24-101, as enacted by Laws of Utah 2015, Chapter 281

63B-26-101, as enacted by Laws of Utah 2016, Chapter 250

63B-27-201, as enacted by Laws of Utah 2017, Chapter 355

63B-28-101, as last amended by Laws of Utah 2020, Chapter 301

63B-29-101, as enacted by Laws of Utah 2019, Chapter 410

63B-31-202, as enacted by Laws of Utah 2021, Chapter 320

63G-12-306, as last amended by Laws of Utah 2014, Chapter 189

63I-5-201 (Superseded 07/01/22), as last amended by Laws of Utah 2021, Chapter 184

63I-5-201 (Effective 07/01/22), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

63J-1-219, as last amended by Laws of Utah 2021, Chapters 184 and 344

63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

67-22-2, as last amended by Laws of Utah 2021, Chapters 64, 184, 344, and 382

ENACTS:

32B-18-203, Utah Code Annotated 1953

32B-18-205, Utah Code Annotated 1953

32B-18-301, Utah Code Annotated 1953

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32B-18-302, Utah Code Annotated 1953

32B-18-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

32B-18-101, (Renumbered from 32B-8a-102, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-201, (Renumbered from 32B-8a-201, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-202, (Renumbered from 32B-8a-202, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-204, (Renumbered from 32B-5-310, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-206, (Renumbered from 32B-8a-203, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-207, (Renumbered from 32B-8a-303, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-401, (Renumbered from 32B-8a-501, as last amended by Laws of Utah 2021, Chapter 291)

32B-18-402, (Renumbered from 32B-8a-502, as last amended by Laws of Utah 2020, Chapter 219)

REPEALS:

32B-8a-101, as last amended by Laws of Utah 2020, Chapter 219

32B-8a-302, as last amended by Laws of Utah 2021, Chapters 84, 291, and 345

32B-12-207, as enacted by Laws of Utah 2021, Chapter 291

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

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

32B-1-102. Definitions.

As used in this title:

- (1) "Airport lounge" means a business location:
 - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - (b) that is located at an international airport.

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(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

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

(i) contains at least .5% of alcohol by volume; and

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

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

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

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

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

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

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

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

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

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

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

(iii) a person who has authority to direct or exercise control over the management or

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policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

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

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

(8) "Banquet" means an event:

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

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

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

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

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

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

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

(a) stored; or

(b) dispensed.

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

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

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(iv) a bar license.

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

(12) (a) [~~Subject to Subsection (12)(d), "beer"~~] "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume[~~; but not~~]; and

(B) no more than 5% of alcohol by volume or 4% by weight; [~~and~~]

(ii) is obtained by fermentation, infusion, or decoction of [~~malted grain~~];

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may [~~or may not contain hops or other vegetable products~~]; contain:

(i) hops extract; or

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient.

[~~(c) "Beer" includes a product that:~~]

[~~(i) contains alcohol in the percentages described in Subsection (12)(a), and~~]

[~~(ii) is referred to as:~~]

[~~(A) beer;~~]

[~~(B) ale;~~]

[~~(C) porter;~~]

[~~(D) stout;~~]

[~~(E) lager; or~~]

[~~(F) a malt or malted beverage.~~]

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~~(d)~~ (c) "Beer" does not include:

(i) a flavored malt beverage[-];

(ii) a product that contains alcohol derived from:

(A) spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

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- (b) heavy beer; or
- (c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage [~~Control~~] Services Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(25) "Community location governing authority" means:

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

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(26) "Container" means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

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

(28) "Convention center" means a facility that is:

- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a "convention center" by the commission by rule.

(29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(30) "Crime involving moral turpitude" is as defined by the commission by rule.

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

(32) "Department compliance officer" means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

(33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

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

(35) "Director," unless the context requires otherwise, means the director of the department.

(36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

(37) (a) Subject to Subsection (37)(b), "dispense" means:

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(i) drawing an alcoholic product; and
(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (37) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license;
- (iv) a beer-only restaurant license;
- (v) a bar license;
- (vi) an on-premise beer retailer;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license; and
- (ix) a hospitality amenity license.

(38) "Dispensing structure" means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

(39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(40) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) "Event permit" means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44) (a) "Flavored malt beverage" means a beverage:

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

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

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

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

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

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

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

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

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

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

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

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

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(50) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(51) (a) "Heavy beer" means a product that:

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

(ii) is obtained by fermentation, infusion, or decoction of [~~malted grain~~];

(A) malt; or

(B) a malt substitute.

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

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

(53) (a) "Hotel" means a commercial lodging establishment that:

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(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for [~~private use under~~] a banquet [~~contract~~] and can accommodate at least 75 individuals; or

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

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

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

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

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

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

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

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

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

(a) law; or

(b) court order.

(59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the

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airport; and

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

(60) "Intoxicated" means that a person:

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

(i) an alcoholic product;

(ii) a controlled substance;

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

(iv) a combination of Subsections (60)(a)(i) through (iii); and

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

(61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer

State License;

~~(d)~~ (d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

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

~~(f)~~ (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act;

or

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

(63) "Licensee" means a person who holds a license.

(64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

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

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

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

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

(IV) other drink or drinkable liquid; and

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

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

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

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

(70) "Local authority" means:

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

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

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

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

~~(72)~~ (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~(73)~~ (74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

~~(74)~~ (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

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

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

~~(75)~~ (76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

~~(76)~~ (77) "Minor" means an individual under ~~the age of~~ 21 years old.

~~(77)~~ (78) "Nondepartment enforcement agency" means an agency that:

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

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

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

~~[(78)]~~ (79) "Nondepartment enforcement officer" means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

~~[(79)]~~ (80) (a) "Off-premise beer retailer" means a beer retailer who is:

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

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

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

~~[(80)]~~ (81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

~~[(81)]~~ (82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

~~[(82)]~~ (83) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

(A) as a tavern; or

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

~~[(83)]~~ (84) "Opaque" means impenetrable to sight.

~~[(84)]~~ (85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

~~[(85)]~~ (86) "Package agent" means a person who holds a package agency.

~~[(86)]~~ (87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

- (a) a customer;
- (b) a member;
- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort; or
- (g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity

license.

~~[(87)]~~ (88) (a) "Performing arts facility" means a multi-use performance space that:

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

- (ii) contains over 2,500 seats;
- (iii) is owned and operated by a governmental entity; and
- (iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

~~[(88)]~~ (89) "Permittee" means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

~~[(89)]~~ (90) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:

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- (i) an out-of-state brewer;
- (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
 - (i) a person listed in Subsections [~~(89)~~] (90)(a) through (f); or
 - (ii) a package agent.

[~~(90)~~] (91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(91)~~] (92) "Prescription" means an order issued by a health care practitioner when:

- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(92)~~] (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

[~~(93)~~] (94) "Principal license" means:

- (a) a resort license;
- (b) a hotel license; or
- (c) an arena license.

[~~(94)~~] (95) (a) "Private event" means a specific social, business, or recreational event:

- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
 - (ii) that is limited in attendance to people who are specifically designated and their guests.
- (b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(95)~~] (96) "Privately sponsored event" means a specific social, business, or recreational event:

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

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

~~[(96)]~~ (97) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

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

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; ~~[or]~~

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

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

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

~~[(97)]~~ (98) "Provisions applicable to a sublicense" means:

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

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

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

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

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

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

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

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

~~[(98)]~~ (99) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

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

~~[(99)]~~ (100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(100)]~~ (101) "Reception center" means a business that:

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

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(100)]~~ (101)(a) to a third party for the third party's event.

~~[(101)]~~ (102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(102)]~~ (103) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

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

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(b) "Record" includes:

- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

~~[(103)]~~ (104) "Residence" means a person's principal place of abode within Utah.

~~[(104)]~~ (105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~[(105)]~~ (106) "Resort" means the same as that term is defined in Section 32B-8-102.

~~[(106)]~~ (107) "Resort facility" is as defined by the commission by rule.

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

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

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

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

(110) "Restaurant" means a business location:

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

(111) "Restaurant license" means one of the following licenses issued under this title:

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

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(112) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a bar establishment license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a hospitality amenity license;
- (l) a resort license;
- (m) a hotel license; or
- (n) an arena license.

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

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

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

- (i) elementary school;
 - (ii) secondary school; or
 - (iii) kindergarten.
- (b) "School" does not include:
- (i) a nursery school;
 - (ii) a day care center;
 - (iii) a trade and technical school;
 - (iv) a preschool; or
 - (v) a home school.

(115) "Secondary flavoring ingredient" means any spirituous liquor added to a

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beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

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

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

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

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
 - (i) a bar licensee; or
 - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (118)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.

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

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

(121) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of [~~breweries~~] manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of [~~breweries~~] manufacturers; and

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

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

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

(122) "Small or unincorporated locality" means:

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

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

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

(123) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

~~[(123)]~~ (124) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(124)]~~ (125) (a) "Spirituous liquor" means liquor that is distilled.

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

~~[(125)]~~ (126) "Sports center" is as defined by the commission by rule.

~~[(126)]~~ (127) (a) "Staff" means an individual who engages in activity governed by this title:

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

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

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

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

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- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.

~~[(127)]~~ (128) "State of nudity" means:

- (a) the appearance of:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.

~~[(128)]~~ (129) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
 - (i) with no less than the following at its widest point:
 - (A) four inches coverage width in the front of the human body; and
 - (B) five inches coverage width in the back of the human body; and
 - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(129)]~~ (130) (a) "State store" means a facility for the sale of packaged liquor:

- (i) located on premises owned or leased by the state; and
 - (ii) operated by a state employee.
- (b) "State store" does not include:
- (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.

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~~[(130)]~~ (131) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

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

~~[(131)]~~ (132) "Sublicense" means:

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

- (i) a full-service restaurant license;
 - (ii) a limited-service restaurant license;
 - (iii) a bar establishment license;
 - (iv) an on-premise banquet license;
 - (v) an on-premise beer retailer license;
 - (vi) a beer-only restaurant license; or
 - (vii) a hospitality amenity license; or
- (b) a ~~[resort]~~ spa sublicense.

~~[(132)]~~ (133) "Supplier" means a person who sells an alcoholic product to the department.

~~[(133)]~~ (134) "Tavern" means an on-premise beer retailer who is:

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

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

~~[(134)]~~ (135) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~[(135)]~~ (136) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~[(136)]~~ (137) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~[(137)]~~ (138) "Unsaleable liquor merchandise" means a container that:

- (a) is unsaleable because the container is:
 - (i) unlabeled;

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- (ii) leaky;
- (iii) damaged;
- (iv) difficult to open; or
- (v) partly filled;
- (b) (i) has faded labels or defective caps or corks;
- (ii) has contents that are:
 - (A) cloudy;
 - (B) spoiled; or
 - (C) chemically determined to be impure; or
- (iii) contains:
 - (A) sediment; or
 - (B) a foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

~~[(138)]~~ (139) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

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

~~[(139)]~~ (140) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section **32B-1-202.1** is amended to read:

32B-1-202.1. Proximity for certain and arena hotel licensees.

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

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

- (a) the proposed hotel is:

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- (i) located in a city classified as a city of the first class under Section 10-2-301;
 - (ii) within 600 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;
 - (iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and
 - (iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;
- (b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:
- (i) is on the second or higher floor of a hotel;
 - (ii) is not accessible at street level; and
 - (iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and
- (c) the applicant meets all other criteria under this title for the hotel license.
- (3) The commission may issue authority to operate as a package agency to a hotel licensee who meets the requirements described in Subsection (2).
- (4) (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which the commission issues the license, each proposed sublicense of the arena license:
- (i) operates as an outlet or restaurant; and
 - (ii) (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or
 - (B) has been in operation on the proposed sublicense premises for at least 10 years.
- (b) After the commission issues an arena license in accordance with Subsection (4)(a), the commission may not issue the arena licensee an additional sublicense.

Section 3. Section **32B-1-603** is amended to read:

32B-1-603. Power of the commission and department to classify flavored malt beverages.

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(1) The commission and department shall regulate a flavored malt beverage as liquor.

(2) (a) The department shall make available to the public on the Internet a list of the flavored malt beverages authorized to be sold in this state as liquor.

(b) The list described in Subsection (2)(a) shall be updated at least quarterly.

(3) (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer wants to distribute in this state subject to the manufacturer holding:

(i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License; or

(ii) a certificate of approval.

(b) A manufacturer may not distribute or sell in this state a flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing with the department in accordance with this Subsection (3) before distributing or selling the flavored malt beverage.

(4) The department may require a manufacturer of a flavored malt beverage to provide the department with a copy of the following filed with the federal Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:

(a) a statement of process; or

(b) a formula.

(5) (a) A manufacturer of an alcoholic product that the department is classifying or proposes to classify as a flavored malt beverage may submit evidence to the department that [its] the manufacturer's alcoholic product should not be treated as liquor under this section because [the alcoholic product:] no formula for the alcoholic product is required to be filed for a reason described in:

(i) Subsection 32B-1-102(44)(a)(ii), as shown by a determination issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or

(ii) Subsection 32B-1-102(44)(a)(iii).

~~[(i) is obtained by fermentation, infusion, or decoction of a malted grain;]~~

~~[(ii) is produced by processing, filtration, or another method of manufacture that is generally recognized as a traditional process in the production of beer as described in 27 C.F.R. Sec. 25.55;]~~

~~[(iii) does not have added to it a flavor or other ingredient containing alcohol, except~~

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for a hop extract, and]

~~[(iv) (A) is not one for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or]~~

~~[(B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.]~~

(b) The department shall review the evidence submitted by the manufacturer under this Subsection (5).

(c) The department shall make available to the public on the Internet a list of the alcoholic products authorized under this Subsection (5) to be sold as beer in this state.

(d) A decision of the department under this Subsection (5) may be appealed to the commission.

Section 4. Section **32B-1-604** is amended to read:

32B-1-604. Requirements for labeling and packaging -- Authority of the commission and department.

(1) A manufacturer may not distribute or sell a malted beverage:

(a) unless the label and packaging of the malted beverage:

(i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

(ii) clearly gives notice to the public that the malted beverage is an alcoholic product;

and

(b) until the day on which the department in accordance with this title and rules of the commission approves the label and packaging of the malted beverage.

(2) The department shall review the label and packaging of a malted beverage to ensure that the label and packaging meet the requirements of Subsection (1)(a).

(3) Except as otherwise required under Section 32B-1-606, a manufacturer may comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for a malted beverage any of the following terms in obvious and clearly visible contrast to the background of the text:

(a) beer;

(b) ale;

(c) porter;

(d) stout;

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(e) lager;

(f) lager beer; [or]

(g) hard seltzer;

(h) spiked seltzer; or

~~(g)~~ (i) another class or type designation commonly applied to a malted beverage that conveys by a recognized term that the product contains alcohol.

Section 5. Section **32B-1-605** is amended to read:

32B-1-605. General procedure for approval.

(1) To obtain approval of the label and packaging of a malted beverage, the manufacturer of the malted beverage shall submit an application to the department for approval.

(2) The application described in Subsection (1) shall be on a form approved by the department and include the following for each brand and label for which the manufacturer seeks approval:

(a) (i) a copy of a federal certificate of label approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau; or

(ii) if the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau does not require label approval, a copy of formula approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

(b) a complete set of original labels for each size of container of the malted beverage;

(c) a description of the size of the container on which a label will be placed;

(d) a description of each type of container of the malted beverage; and

(e) a description of any packaging for the malted beverage.

(3) The department may assess a reasonable fee for reviewing a label and packaging for approval.

(4) (a) The department shall notify a manufacturer within 30 days after the day on which the manufacturer submits ~~an~~ a complete application whether the label and packaging is approved or denied.

(b) If the department determines that an unusual circumstance requires additional time, the department may extend the time period described in Subsection (4)(a).

(5) A manufacturer shall obtain the approval of the department of a revision of a

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previously approved label and packaging before a malted beverage using the revised label and packaging may be distributed or sold in this state.

(6) (a) The department may revoke a label and packaging previously approved upon a finding that the label and packaging is not in compliance with this title or rules of the commission.

(b) The department shall notify the ~~[person who applies for the approval of a]~~ manufacturer who applied for an approved label and packaging at least ~~[five]~~ 30 business days before the day on which ~~[a]~~ the label and packaging approval is considered revoked.

(c) ~~[After receiving]~~ Within 20 business days after the day on which a manufacturer receives the notice under Subsection (6)(b), ~~[a]~~ the manufacturer may present written argument or evidence to the department on why the revocation should not occur.

(7) (a) A manufacturer that applies for approval of a label and packaging may appeal a denial or revocation of a label and packaging approval to the commission.

(b) During the period in which a manufacturer appeals a denial or revocation of a label and packaging approval to the commission, as permitted under Subsection (7)(a), the denial or revocation shall remain in force.

Section 6. Section **32B-1-606** is amended to read:

32B-1-606. Special procedure for certain malted beverages.

(1) A manufacturer of a malted beverage may not distribute or sell the malted beverage in the state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with:

- (a) Sections 32B-1-604 and 32B-1-605; and
- (b) this section, if the malted beverage is labeled or packaged in a manner that is:
 - (i) similar to a label or packaging used for a nonalcoholic beverage; or
 - (ii) likely to confuse or mislead a patron to believe the malted beverage is a

nonalcoholic beverage.

(2) The department may not approve the labeling and packaging of a malted beverage described in Subsection (1) unless in addition to the requirements of Section 32B-1-604 the labeling and packaging complies with the following:

(a) the front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least

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three millimeters high and is in obvious and clearly visible contrast to the background of the text:

(i) the statement:

(A) "alcoholic beverage"; or

(B) "contains alcohol"; and

(ii) the alcohol content of the malted beverage, if the alcohol content is not otherwise provided:

(A) in a serving facts statement on the container; and

(B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

(b) the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text, the statement:

(i) "alcoholic beverage"; or

(ii) "contains alcohol";

(c) a statement required by Subsection (2)(a) or (b) appears in a format required by rule made by the commission; and

(d) a statement of alcohol content required by Subsection (2)(a)(ii):

(i) states the alcohol content as a percentage of alcohol by volume or by weight; and

(ii) is in a format required by rule made by the commission.

(3) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2).

(4) To determine whether a malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:

(a) whether the coloring, carbonation, and packaging of the malted beverage:

(i) is similar to those of a nonalcoholic beverage or product; or

(ii) can be confused with a nonalcoholic beverage;

(b) whether the malted beverage possesses a character and flavor distinctive from a traditional malted beverage;

(c) whether the malted beverage:

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- (i) is prepackaged;
- (ii) contains high levels of caffeine and other additives; and
- (iii) is marketed as a beverage that is specifically designed to provide energy;
- (d) whether the malted beverage contains added sweetener or sugar substitutes; or
- (e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 7. Section **32B-1-701** is amended to read:

32B-1-701. Definitions.

As used in this part:

(1) "Off-premise retail manager" means an individual who manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) "Off-premise retail staff" does not include an off-premise retail manager.

(3) "Retail manager" means an individual who:

(a) manages operations at a premises that is licensed under [~~this chapter~~] Chapter 5, Retail License Act; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under [~~this chapter~~] Chapter 5, Retail License Act.

(4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under [~~this chapter~~] Chapter 5, Retail License Act.

(b) "Retail staff" does not include a retail manager.

Section 8. Section **32B-1-704** is amended to read:

32B-1-704. Department training programs.

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

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(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4) (a) [~~Except as provided in Subsection (5), each~~] Each retail manager shall complete the training described in Subsection (1)(a) no later than the later of:

(i) 30 days after the day on which the retail manager is hired; or

(ii) [~~30 days after~~] the day on which the retail licensee obtains a retail license [~~under this chapter~~].

(b) [~~Except as provided in Subsection (5), each~~] Each off-premise retail manager shall

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complete the training described in Subsection (2) no later than the later of:

- (i) 30 days after the day on which the off-premise retail manager is hired; or
- (ii) 30 days after the day on which the off-premise beer retailer obtains an off-premise

beer retailer state license.

(c) (i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

~~[(5) (a) For a person who holds a retail license on January 1, 2018, each retail manager shall complete the training program described in Subsection (1)(a) for the first time as a condition of renewing the licensee's retail license in 2018.]~~

~~[(b) For a person who holds an off-premise beer retailer state license on January 1, 2019, each off-premise retail manager shall complete the training program described in Subsection (1)(b) for the first time as a condition of renewing the licensee's off-premise beer retailer state license in 2019.]~~

~~[(6)] (5) If an individual fails to complete a required training program under this section:~~

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, metro township, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 9. Section **32B-2-101** is amended to read:

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32B-2-101. Title.

This chapter is known as the "Alcoholic Beverage [~~Control~~] Services Administration Act."

Section 10. Section **32B-2-201** is amended to read:

32B-2-201. Alcoholic Beverage Services Commission created.

(1) There is created the "Alcoholic Beverage [~~Control~~] Services Commission." The commission is the governing board over the department.

(2) (a) The commission is composed of seven part-time commissioners appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) No more than four commissioners may be of the same political party.

(3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.

(4) (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the advice and consent of the Senate.

(5) A commissioner shall take the oath of office.

(6) (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:

(i) the governor; or

(ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

(b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:

(i) the date, time, and place of the hearing; and

(ii) the alleged grounds for the removal.

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(c) The commissioner shall have an opportunity to:

- (i) attend the hearing;
- (ii) present witnesses and other evidence; and
- (iii) confront and cross examine witnesses.

(d) After a hearing under this Subsection (6):

(i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and

(ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.

(e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).

(f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.

(g) The governor shall:

- (i) issue the final order under this Subsection (6) in writing; and
- (ii) serve the final order upon the commissioner.

(7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(8) (a) (i) The governor shall annually appoint the chair of the commission.

(ii) A commissioner serves as chair to the commission at the pleasure of the governor.

(iii) If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).

(b) The commission shall elect:

- (i) another commissioner to serve as vice chair; and
- (ii) other commission officers as the commission considers advisable.

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(c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.

(9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.

(b) Four commissioners is a quorum for conducting commission business.

(c) A majority vote of the quorum present at a meeting is required for the commission to act.

(d) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:

(i) the commission;

(ii) the chair; or

(iii) three commissioners upon filing a written request for a meeting with the chair.

(b) (i) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

Section 11. Section **32B-2-202** is amended to read:

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

(1) The commission shall:

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

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

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

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

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

(d) decide within the limits, and under the conditions imposed by this title, the number

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and location of state stores, package agencies, and retail licensees in the state;

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

- (i) a package agency;
- (ii) a full-service restaurant license;
- (iii) a master full-service restaurant license;
- (iv) a limited-service restaurant license;
- (v) a master limited-service restaurant license;
- (vi) a bar establishment license;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license;
- (ix) a resort license, which includes four or more sublicenses;
- (x) an on-premise beer retailer license;
- (xi) a reception center license;
- (xii) a beer-only restaurant license;
- (xiii) a hotel license, which includes three or more sublicenses;
- (xiv) an arena license, which includes three or more sublicenses;
- (xv) a hospitality amenity license;
- (xvi) subject to Subsection [~~(4)~~] (5), a single event permit;
- (xvii) subject to Subsection [~~(4)~~] (5), a temporary beer event permit;
- (xviii) a special use permit;
- (xix) a manufacturing license;
- (xx) a liquor warehousing license;
- (xxi) a beer wholesaling license;
- (xxii) a liquor transport license;
- (xxiii) an off-premise beer retailer state license;
- (xxiv) a master off-premise beer retailer state license;
- (xxv) one of the following that holds a certificate of approval:
 - (A) an out-of-state brewer;
 - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

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- (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; and
- (xxvi) a [resort] spa sublicense;
- (f) issue, deny, suspend, or revoke the following conditional licenses:
 - (i) a conditional retail license as defined in Section 32B-5-205; and
 - (ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;
- (g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;
- (h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;
- (i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;
- (j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;
- (k) (i) require the director to follow sound management principles; and
 - (ii) require periodic reporting from the director to ensure that:
 - (A) sound management principles are being followed; and
 - (B) policies established by the commission are being observed;
- (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and
 - (ii) do the things necessary to support the department in properly performing the department's duties;
- (m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:
 - (i) considered expedient; and
 - (ii) approved by the governor;
- (n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
- (o) make rules governing the credit terms of beer sales within the state to retail licensees; and
- (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take

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disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

- (a) establish a state store;
- (b) issue authority to act as a package agent or operate a package agency; and
- (c) issue, deny, or deem forfeit a license, permit, or certificate of approval.

(3) (a) Subject to Subsection (3)(b), the commission may:

- (i) make rules permitting and establishing the parameters of a late license renewal; and
- (ii) establish a fee, in accordance with Section 63J-1-504, for a late license renewal.

(b) The commission may not allow for the late renewal of a license after the later of:

(i) the tenth day of the month after the month in which the license type is required to be renewed; or

(ii) if the tenth day of the month after the month in which the license type is required to be renewed falls on a Saturday, Sunday, or state or federal holiday, the first business day after the Saturday, Sunday, or holiday.

~~[(3)]~~ (4) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(4)]~~ (5) Notwithstanding Subsections (1)(e)(xvi) and (xvii), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 12. Section **32B-2-203** is amended to read:

32B-2-203. Department of Alcoholic Beverage Services created.

(1) There is created the Department of Alcoholic Beverage ~~[Control]~~ Services. The department is governed by the commission.

(2) The director of alcoholic beverage ~~[control]~~ services appointed under Section 32B-2-205 shall administer the department.

(3) The director shall allocate the duties within the department into the divisions, bureaus, sections, offices, and committees as the director considers necessary for the administration of this title.

(4) The department shall cooperate with any other recognized agency in the

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administration of this title and in the enforcement of a policy or rule of the commission or policy of the director.

Section 13. Section **32B-2-205** is amended to read:

32B-2-205. Director of alcoholic beverage services.

(1) (a) In accordance with Subsection (1)(b), the governor, with the advice and consent of the Senate, shall appoint a director of alcoholic beverage [~~control~~] services to a four-year term. The director may be appointed to more than one four-year term. The director is the administrative head of the department.

(b) (i) The governor shall appoint the director from nominations made by the commission.

(ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.

(iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:

(A) appoint the director; or

(B) reject the three nominations.

(iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint the director or reject the nominations until such time as the governor appoints the director.

(v) The governor may reappoint the director without seeking nominations from the commission. Reappointment of a director is subject to the advice and consent of the Senate.

(c) (i) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may appoint an interim director for a period of up to 30 calendar days.

(ii) If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period subject to the advice and consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor.

(iii) Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.

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- (d) The director may be terminated by:
 - (i) the commission by a vote of four commissioners; or
 - (ii) the governor after consultation with the commission.
- (e) The director may not be a commissioner.
- (f) The director shall:
 - (i) be qualified in administration;
 - (ii) be knowledgeable by experience and training in the field of business management;

and

- (iii) possess any other qualification prescribed by the commission.

(2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

- (3) The director shall:

- (a) carry out the policies of the commission;
- (b) carry out the policies of the department;
- (c) fully inform the commission of the operations and administrative activities of the

department; and

- (d) assist the commission in the proper discharge of the commission's duties.

Section 14. Section **32B-2-210** is amended to read:

32B-2-210. Alcoholic Beverage Services Advisory Board.

(1) There is created within the department (1) an advisory board known as the "Alcoholic Beverage [~~Control~~] Services Advisory Board."

(2) The advisory board shall consist of eight voting members and one nonvoting member as follows:

- (a) four voting members appointed by the commission:
 - (i) one of whom represents the retail alcohol industry;
 - (ii) one of whom represents the wholesale alcohol industry;
 - (iii) one of whom represents the alcohol manufacturing industry; and
 - (iv) one of whom represents the restaurant industry;

(b) two voting members appointed by the commission, each of whom represents an organization that addresses alcohol or drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education;

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(c) the director of the Division of Substance Abuse and Mental Health or the director's designee who serves as a voting member;

(d) the chair of the Utah Substance Use and Mental Health Advisory Council, or the chair's designee, who serves as a voting member; and

(e) the chair of the commission or the chair's designee from the members of the commission, who serves as a nonvoting member.

(3) (a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4) (a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7) (a) Five members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 15. Section **32B-2-301** is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) As used in this section, "base budget" means the same as that term is defined in legislative rule.

(2) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in ~~[Section]~~ Sections 32B-2-304, 32B-2-305, and 32B-2-306, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304~~[-and].~~

~~[(iii) money credited under Subsection (4).]~~

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

~~[(4) (a) The department shall deposit 0.125% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the Liquor Control Fund.]~~

~~[(b) The department shall deposit 0.27% of the total gross revenue from the sale of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the Liquor Control Fund.]~~

~~[(5)]~~ (4) (a) Notwithstanding Subsection (3)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the

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department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

~~[(6)]~~ (5) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(a) credit card related fees paid by the department;

(b) package agency compensation;

(c) the department's costs of shipping and warehousing alcoholic products; and

(d) the amount needed, as the Division of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state store manager or equivalent;

(ii) state store assistant manager or equivalent;

(iii) full-time sales clerk at a state store or equivalent;

(iv) part-time sales clerk at a state store or equivalent;

(v) department warehouse manager or equivalent;

(vi) department warehouse assistant manager or equivalent;

(vii) full-time department warehouse worker or equivalent; and

(viii) part-time department warehouse worker or equivalent.

~~[(7)]~~ (6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection ~~[(7)]~~ (6).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

~~[(8)]~~ (7) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

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(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

~~[(9)]~~ (8) Before the Division of Finance makes the transfer described in Subsection ~~[(7)]~~ (6), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

Section 16. Section **32B-2-304** is amended to read:

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

(1) For purposes of this section:

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

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

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

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

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

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

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

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

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

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked

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up in an amount not less than 17% above the landed case cost to the department.

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

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

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

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

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

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

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

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

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

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

(e) The department shall:

(i) for purposes of Subsections (3)(b) and (c), calculate the production amount of a manufacturer:

(A) by, if the manufacturer is part of a controlled group of manufacturers, including the combined volume totals of spirituous liquor, wine, or cider, as applicable, for all manufacturers that constitute the controlled group of manufacturers; and

(B) without considering the manufacturer's production of any other type of alcoholic product; and

(ii) verify [am] that a manufacturer meets a production amount described in Subsection (3)(b)[, (c), or (d)] or (c) and the production amount of a small brewer pursuant to a federal or other verifiable production report.

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

(f) A manufacturer seeking to obtain a reduced markup under Subsection (3)(b), (c), or (d), shall provide to the department any documentation or information the department determines necessary to determine if the manufacturer is part of a controlled group of manufacturers.

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

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

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

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

Section 17. Section **32B-2-602** is amended to read:

32B-2-602. Application and renewal requirements for a package agency.

(1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed container on its premises under a package agency, the person shall first obtain a package agency issued by the commission in accordance with this part.

(2) To obtain a package agency, a person seeking to be the package agent under this part shall submit to the department:

- (a) a written application in a form prescribed by the department;
- (b) a nonrefundable application fee of \$125;
- (c) written consent of the local authority;
- (d) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

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(e) a bond as specified by Section 32B-2-604;

(f) a floor plan of the premises, including a description and highlighting of that part of the premises in which the person proposes that the package agency be located;

(g) evidence that the package agency is carrying public liability insurance in an amount and form satisfactory to the department;

(h) a signed consent form stating that the package agent permits any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the package agency;

(i) if the person applying is an entity, verification that a person who signs the package agency application is authorized to sign on behalf of the entity; and

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

(3) The commission may not issue a package agency to a person who is disqualified under Section 32B-1-304.

(4) The commission may not issue a package agency for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) For the renewal of a package agency agreement, the package agent shall submit to the department any information the commission or department may require.

Section 18. Section **32B-2-605** is amended to read:

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

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

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

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

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

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

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

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

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

(i) the package agent; or

(ii) an individual designated by the package agent.

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

(i) an employee of the package agent; and

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

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

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

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

(f) A package agent shall:

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

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

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

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

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

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

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

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at

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[insert most current toll-free number] with questions or for more information.";

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) in person; and

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

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

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(iv) the alcoholic product:

(A) is not a spirituous liquor; and

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

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

(a) a minor;

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

(c) a known interdicted person; or

(d) a known habitual drunkard.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) on Sunday; or

(B) on a state or federal legal holiday; and

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

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

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

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

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

~~[(B) a limited-service restaurant license;]~~

~~[(C) a beer-only restaurant license;]~~

~~[(D) a dining club license; or]~~

~~[(E) a bar license;]~~

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

~~[(iv) the restaurant, dining club, or bar sells an alcoholic product produced at the manufacturing facility;]~~

~~[(v) the manufacturing facility:]~~

~~[(A) owns the restaurant, dining club, or bar; or]~~

~~[(B) operates the restaurant, dining club, or bar;]~~

~~[(vi)] (ii) the package agency only sells an alcoholic product produced at the manufacturing facility[; and].~~

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

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

(A) a resort licensee; or

(B) a hotel licensee.

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

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

(i) 21 years ~~[of age]~~ old or older; and

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

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

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

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

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

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package

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agency if the minor or person fails to provide any information specified in Subsection (14)(b).

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

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

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

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

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

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

(iii) subject to:

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

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

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

(16) A package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

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

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

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

(d) inventory levels;

(e) payment schedules;

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- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

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

Section 19. Section **32B-3-202** is amended to read:

32B-3-202. Timing of reporting violations.

(1) The department or the commission may not take administrative action against a person subject to administrative action before:

(a) a nondepartment enforcement agency or enforcement officer or a department compliance officer submits to the department a report:

(i) containing facts that could support a finding that the person subject to administrative action violated this title or a commission rule; and

(ii) no more than eight business days after the day on which the nondepartment enforcement agency or officer or the compliance officer completes the investigation containing the facts described in Subsection (1)(a)(i); and

(b) subject to Subsection (5), the department notifies the person subject to administrative action, no more than eight business days after the day on which the department receives the report described in Subsection (1)(a), that the commission or department:

(i) received the report described in Subsection (1)(a); and

(ii) may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, on the facts contained in the report described in Subsection (1)(a).

(2) (a) The department may provide the notice required under this section orally, if after the oral notification the department provides written notification.

(b) The department may provide the written notification described in Subsection (2)(a) outside the time periods required under this section.

(3) The department shall maintain a record of a notification required under this section that includes:

(a) the name of the person notified;

(b) the date of the notification; and

(c) the type of notification given.

(4) (a) The department may issue an order to show cause if the department receives a

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report described in Subsection (1)(a), containing facts that could support a finding that the person subject to administrative action violated:

- (i) this title regarding necessary licensing requirements; or
- (ii) a commission rule regarding necessary licensing requirements.
- (b) A necessary licensing requirement described in Subsection (4)(a) includes:
 - (i) maintaining an approved, licensed premise;
 - (ii) maintaining insurance;
 - (iii) maintaining a bond;
 - (iv) following the requirements in Section 32B-1-304, regarding qualifications;
 - (v) maintaining required store hours;
 - (vi) failing to utilize the license issued; or
 - (vii) transferring a license in violation of [~~Chapter 8a, Transfer of Alcohol License Act~~]

Chapter 18, Change of Alcohol License or Location Act.

(c) The department's issuance of an order to show cause in accordance with this Subsection (4):

- (i) does not initiate a disciplinary proceeding; and
- (ii) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.
- (5) The department is not required to provide notice as described in Subsection (1)(b)

if the person subject to administrative action is staff.

Section 20. Section **32B-3-205** is amended to read:

32B-3-205. Penalties.

(1) If the commission is satisfied that a person subject to administrative action violates this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

- (a) suspend or revoke the person's license, permit, or certificate of approval;
 - (b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;
 - (c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or
 - (d) take a combination of actions described in this Subsection (1).
- (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

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- (i) a single notice of agency action; or
- (ii) a single action against a package agency.

(b) The commission shall by rule establish a schedule setting forth a range of fines for each violation.

(c) When a presiding officer imposes a fine, the presiding officer shall consider any aggravating circumstances or mitigating circumstances in deciding where within the applicable range to set the fine.

(3) The department shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

(4) (a) If a license or permit is suspended under this section, the licensee or permittee shall prominently display a sign provided by the department:

- (i) during the suspension; and
- (ii) at the entrance of the premises of the licensee or permittee.

(b) The sign required by this Subsection (4) shall:

(i) read "The Utah Alcoholic Beverage [~~Control~~] Services Commission has suspended the alcoholic product license or permit of this establishment. An alcoholic product may not be sold, offered for sale, furnished, or consumed on these premises during the period of suspension."; and

(ii) include the dates of the suspension period.

(c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to be displayed under this Subsection (4) during the suspension period.

(5) (a) If a license or permit is revoked, the commission may order the revocation of a bond posted by the licensee or permittee under this title.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first revoking the license or permit.

(6) A licensee or permittee whose license or permit is revoked may not reapply for a license or permit under this title for three years from the date on which the license or permit is revoked.

(7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized by this title, the

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commission may prohibit the staff member from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.

(8) (a) If the commission makes the finding described in Subsection (8)(b), in addition to other penalties prescribed by this title, the commission may order:

(i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's from the department's sales list; and

(ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.

(b) The commission may take the action described in Subsection (8)(a) if:

(i) a manufacturer, supplier, or importer of liquor or its staff or representative violates this title; and

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

(B) solicits, requests, commands, encourages, or intentionally aids another to engage in the violation.

(9) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take an action against the brewer holding a certificate of approval that the commission could take against a licensee including:

(a) suspension or revocation of the certificate of approval; and

(b) imposition of a fine.

(10) Notwithstanding the other provisions of this title, the commission may not order a disciplinary action or fine in accordance with this section if the disciplinary action or fine is ordered on the basis of a violation:

(a) of a provision in this title related to intoxication or becoming intoxicated; and

(b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or service.

(11) The commission shall expunge each record that relates to an individual's violation

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of a provision of this title, if the individual does not violate a provision of this title for a period of 36 consecutive months from the day on which the individual's last violation was adjudicated.

Section 21. Section **32B-4-403** is amended to read:

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

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

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

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

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

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

(a) for medicinal purposes by:

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

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

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

Section 22. Section **32B-4-415** is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4) and Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and Section 32B-5-307, the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption

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or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public;

(e) the State Capitol Preservation Board created in Section 63C-9-201; or

(f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

(a) a location from which the passenger departs in a private vehicle; or

(b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a bar establishment licensee; or

(iv) a person operating under a [~~resort~~] spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger;

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and

(iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

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(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger;

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or

(b) except as provided in Subsection (4), sublicensed premises.

Section 23. Section **32B-5-102** is amended to read:

32B-5-102. Definitions.

~~[As used in this chapter:]~~

~~[(1) "Interim alcoholic beverage management agreement" means an agreement:]~~

~~[(a) in connection with:]~~

~~[(i) the transfer of a retail license; and]~~

~~[(ii) (A) an asset sale of a retail licensee; or]~~

~~[(B) a transfer of the management of a retail licensee to a new entity; and]~~

~~[(b) under which the purchaser or the new management entity agrees to perform the operations of the retail licensee during the period that:]~~

~~[(i) begins when:]~~

~~[(A) the asset sale closes; or]~~

~~[(B) the new management agreement is executed; and]~~

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~~[(ii) ends on the day after the day on which the commission approves the transfer of the retail license.]~~

~~[(2) "Inventory transfer agreement" means an agreement under which a retail licensee agrees to sell or otherwise transfer all or part of the retail licensee's inventory of alcoholic product.]~~

Reserved.

Section 24. Section **32B-5-201** is amended to read:

32B-5-201. Application requirements for retail license.

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) every license the local authority requires, including the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the ~~[relevant political subdivision]~~ local authority determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with

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proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license and each, if any, accompanying sublicense, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee carries dramshop insurance coverage of at least:

(i) \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(ii) if the retail licensee is a hotel licensee or a resort licensee, \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, \$10,000,000 per occurrence and \$20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses.

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter:

(i) the premises of the retail licensee; and

(ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity;

(m) a responsible alcohol service plan; ~~and~~

(n) evidence that each individual the person has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

~~(n)~~ (o) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

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(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant chapter or part for the type of retail license for which the person is applying, the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

Section 25. Section **32B-5-202** is amended to read:

32B-5-202. Renewal requirements.

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

(2) (a) To renew a person's retail license, a retail licensee shall, on or before the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew, submit:

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

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

(iii) a responsible alcohol service plan if, since the retail licensee's most recent application or renewal, the retail licensee:

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

or

(B) violated a provision of this chapter.

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

~~[(ii) The commission may:]~~

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

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

~~[(c)]~~ (b) The department may audit a retail licensee's responsible alcohol service plan.

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

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Section 26. Section **32B-5-205** is amended to read:

32B-5-205. Conditional retail license.

(1) As used in this section:

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

(i) ~~conditions the holder's ability to [sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises]~~ obtain a valid retail license on the person submitting to the department;

(A) a copy of every license or permit the local authority requires for the valid retail license, including the holder's current business license [before obtaining a valid retail license; and];

(B) a bond;

(C) evidence that the person carries public liability insurance;

(D) evidence that the person carries dramshop insurance;

(E) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; or

(F) any other information the department or commission may require for licensure; and

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

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

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

(a) meets ~~[the requirements]~~ each requirement to obtain the retail license for which the person is applying, except ~~[the]~~ a requirement to submit to the department:

(i) a copy of every license or permit the local authority requires for the retail license, including the person's current business license; [and]

(ii) a bond;

(iii) evidence that the person carries public liability insurance;

(iv) evidence that the person carries dramshop insurance coverage;

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(v) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; or

(vi) a menu; and

(b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [~~its~~] the conditional retail licensee's licensed premises before obtaining a valid retail license.

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

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

(i) submit to the department:

(A) a copy of every license or permit the local authority requires for the retail license, including the person's current business license; [~~and~~]

(B) a bond as specified by Section 32B-5-204;

(C) evidence that the conditional retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(D) evidence that the conditional retail licensee carries dramshop insurance coverage as specified in Section 32B-5-201;

(E) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed an alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

(F) any other information the department or commission may require; and

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

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

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

(4) (a) A conditional retail license expires 18 months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a

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valid retail license before that day.

(b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional six months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:

- (i) has an active building permit related to the licensed premises; and
- (ii) is engaged in a good faith effort to pursue completion within the six-month period.

Section 27. Section **32B-5-304** is amended to read:

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

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

~~[(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following requirements:]~~

~~[(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;]~~

~~[(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;]~~

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

~~[(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";]~~

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

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

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

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

(i) a secondary flavoring ingredient;

(ii) used as a flavoring on a dessert; or

(iii) used to set aflame a food dish, drink, or dessert.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring

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ingredient shall:

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

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

~~[(c)]~~ (d) ~~[a]~~ A patron may have no more than 2.5 ounces of spirituous liquor at a time.

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

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

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

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

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

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

(5) (a) ~~(i)~~ Subject to Subsection ~~[(5)(b)]~~ (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

~~[(i)]~~ (A) in an open original container; and

~~[(ii)]~~ (B) in a container on draft.

~~[(b)]~~ (ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

~~[(i)]~~ (A) in a size of container that exceeds two liters; or

~~[(ii)]~~ (B) to an individual patron in a size of container that exceeds one liter.

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

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(ii) in a size of container that does not exceed two liters.

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

Section 28. Section **32B-5-307** is amended to read:

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

(1) Except as provided in Subsections (3) and (4):

(a) a person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption;

(b) a retail licensee may not allow a person to:

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

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

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

(2) Except as provided in Subsections (3) and (4) and Subsection 32B-4-415(5):

(a) a person may not carry from [a] the licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product;

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

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

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

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

(i) permitted by the retail licensee; and

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

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the

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patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

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

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

(4) Neither a patron nor a retail licensee violates this section if:

(a) the patron is in shared seating; and

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

(5) (a) A patron may carry from a retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

(b) A retail licensee may permit a patron to carry from the retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

Section 29. Section **32B-5-309** is amended to read:

32B-5-309. Ceasing operation.

(1) Except as provided in Subsection (8), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:

(a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and

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

(2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.

(3) (a) The department may authorize [a] an initial closure or cessation of operation of a retail licensee for a period not to exceed 60 days.

(b) [The] Upon written request of the retail licensee and a showing of good cause, the department may extend the initial period [an additional] described in Subsection (3)(a) for a period not to exceed the greater of:

(i) 30 days [upon]; or

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(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled meeting.

~~[(i) written request of the retail licensee; and]~~

~~[(ii) a showing of good cause.]~~

(4) A closure or cessation of operation may not exceed ~~[a total of 90 days]~~ the time limits described in Subsection (3) without commission approval.

(5) A notice required under this section shall include:

- (a) the dates of closure or cessation of operation;
- (b) the reason for the closure or cessation of operation; and
- (c) the date on which the retail licensee will reopen or resume operation.

(6) Failure of a retail licensee to provide notice and to obtain department approval before closure or cessation of operation results in an automatic forfeiture of:

- (a) the retail license; and
- (b) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.

(7) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:

- (a) the retail license; and
- (b) the unused portion of the retail license fee for the remainder of the retail license year.

(8) This section does not apply to:

- (a) an on-premise beer retailer who is not a tavern; ~~[or]~~
- (b) an airport lounge licensee; or
- (c) a hospitality amenity licensee.

(9) (a) For purposes of this section, the department may not base a determination that a retail licensee has ceased operation solely upon the retail licensee's lack of sales.

(b) Subsection (9)(a) has retroactive application to March 12, 2020.

Section 30. Section **32B-6-205** is amended to read:

32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

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Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

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

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a prominent place in the restaurant a list of the types and brand names of liquor being furnished through the full-service restaurant licensee's calibrated metered dispensing system.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

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(7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product for on-premise consumption except after the full-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~[(b)]~~ (c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) (a) Subject to the other provisions of this Subsection (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

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

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (8)(a).

(9) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a seating grandfathered bar structure; and

(b) where food is served.

(10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years ~~[of age]~~ old or older may:

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

(c) Except as provided in Subsection (10)(d), at a seating grandfathered bar structure a

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full-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a full-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's premises in which the minor is permitted to be.

(11) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

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(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (11)(a).

(12) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years ~~[of age]~~ old or older.

(14) Except as provided in Subsection 32B-6-205.2(16) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 31. Section **32B-6-205.2** is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

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

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

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(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as

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described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is five ounces or less.

(c) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~(c)~~ (d) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

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

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

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

(8) In accordance with the provisions of this section, an individual who is at least 21 years ~~of age~~ old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

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(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years [~~of age~~] old and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee;

and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic

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product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

- (i) a record required by Section 32B-5-302; and
- (ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once [~~each calendar year~~] annually.

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

- (a) that the commission considers proper for the storage of wine; and
- (b) for the storage of wine that:
 - (i) the patron purchases from the full-service restaurant licensee; and
 - (ii) only the full-service restaurant licensee or staff of the full-service restaurant

licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306;

or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

(16) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017;

and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar

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structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 32. Section **32B-6-205.3** is amended to read:

32B-6-205.3. Transition process for full-service restaurant licensees.

(1) For a full-service restaurant license issued on or after July 1, 2017, the full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2.

(2) For a full-service restaurant license issued before July 1, 2017, before the full-service restaurant licensee changes the full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a full-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-205.2 on or before July 1, 2018.

(b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a full-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a full-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-205.2

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on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the full-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 33. Section **32B-6-305** is amended to read:

32B-6-305. Specific operational requirements for a limited-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

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

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of:

(i) spirituous liquor; or

(ii) a flavored malt beverage.

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(b) A product listed in Subsection (2)(a) may not be on the premises of a limited-service restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product for on-premise consumption except after the limited-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~(b)~~ (c) A limited-service restaurant licensee shall maintain on the licensed premises

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adequate culinary facilities for food preparation and dining accommodations.

(8) (a) Subject to the other provisions of this Subsection (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (8)(a).

(9) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a seating grandfathered bar structure; and

(b) where food is served.

(10) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years [~~of age~~] old or older may:

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

(c) Except as provided in Subsection (10)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant

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licensee's premises in which the minor is permitted to be.

(11) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the limited-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (11)(a).

(12) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:

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- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years ~~[of age]~~ old or older.

(14) Except as provided in Subsection 32B-6-305.2(15) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.

Section 34. Section **32B-6-305.2** is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

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

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or
- (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or

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heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A limited-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to

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sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~(d)~~ (d) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only if the patron is seated at:

- (a) a table that is located in a dining area or a dispensing area;
- (b) a counter that is located in a dining area or a dispensing area; or
- (c) a dispensing structure located in a dispensing area.

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

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

(8) In accordance with the provisions of this section, an individual who is at least 21 years ~~of age~~ old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years ~~of age~~ old and working as an employee of the limited-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant

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licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant

licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three

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years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

(15) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017;

and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-305.

Section 35. Section **32B-6-305.3** is amended to read:

32B-6-305.3. Transition process for limited-service restaurant licensees.

(1) For a limited-service restaurant license issued on or after July 1, 2017, the limited-service restaurant licensee shall comply with the provisions of Section 32B-6-305.2.

(2) For a limited-service restaurant license issued before July 1, 2017, before the limited-service restaurant licensee changes the limited-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-305.2, the limited-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a limited-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-305.2 on or before July 1, 2018.

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(b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a limited-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-305.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the limited-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the limited-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 36. Section **32B-6-404.1** is amended to read:

32B-6-404.1. Transition from dining club license to full-service restaurant license.

(1) As used in this section:

(a) "Converted full-service restaurant licensee" means a dining club licensee that

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converts to a full-service restaurant licensee on or before July 1, 2018, in accordance with Subsection 32B-6-404(7).

(b) "Grandfathered bar structure" means the same as that term is defined in Section 32B-6-202.

(2) (a) Except as provided in Subsection (2)(c) and subject to the provisions of this section, a converted full-service restaurant licensee shall operate under the provisions that govern a full-service restaurant licensee that has a grandfathered bar structure.

(b) For purposes of applying the provisions that govern a full-service restaurant licensee with a grandfathered bar structure, a converted full-service restaurant licensee's bar structure is considered a grandfathered bar structure.

(c) The provisions of Section 32B-6-205.3 do not apply to a converted full-service restaurant licensee.

(3) (a) A converted full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the converted full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or dining area; or

(iii) the date on which the converted full-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) Before a converted full-service restaurant licensee changes the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(c) A converted full-service restaurant licensee that cannot comply with the provisions of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption shall submit an application for approval described in Subsection (3)(b) on or before May 1, 2022.

(4) (a) Notwithstanding any provision to the contrary, a converted full-service

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restaurant licensee shall maintain at least the following percentage of the converted full-service restaurant licensee's total restaurant business from the sale of food:

(i) beginning the day on which the licensee becomes a converted full-service restaurant licensee, and ending June 30, 2019, 64%;

(ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and

(iii) on and after July 1, 2021, 70%.

(b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's restaurant business from the sale of food does not include:

(i) mix for an alcoholic product; or

(ii) a service charge.

Section 37. Section **32B-6-605** is amended to read:

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

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

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

(i) an on-premise banquet licensee;

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

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

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

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

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

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

(ii) a law enforcement officer.

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

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

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

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

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

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

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

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

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

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

(B) unopened container of an alcoholic product.

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

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

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

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

(8) An on-premise banquet licensee:

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

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

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

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

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

(i) is not a spirituous liquor; and

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

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

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

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

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

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

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

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

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

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

Section 38. Section **32B-6-706** is amended to read:

32B-6-706. Specific operational requirements for on-premise beer retailer license.

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

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

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

- (i) an on-premise beer retailer;
- (ii) individual staff of an on-premise beer retailer; or
- (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

(2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make and maintain the records the department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or sell liquor on its licensed premises.

~~[(4) Beer sold in a sealed container by an on-premise beer retailer may be removed from the on-premise beer retailer premises in the sealed container.]~~

~~[(5) (4) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at [its] the on-premise beer retailer's licensed premises during a period that:~~

- ~~(i) begins at 1 a.m.; and~~
- ~~(ii) ends at 9:59 a.m.~~

~~(b) (i) Notwithstanding Subsection ~~[(5) (4)~~(a), a tavern shall remain open for one hour after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 26 ounces.~~

- ~~(ii) A tavern is not required to remain open:~~
 - ~~(A) after all patrons have vacated the premises; or~~
 - ~~(B) during an emergency.~~

~~[(6) (5) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a tavern.~~

~~[(7) (6) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases from:~~

- ~~(A) a beer wholesaler licensee; or~~
- ~~(B) a small brewer that manufactures the beer.~~
- ~~(ii) Violation of Subsection ~~[(7) (6)~~(a)(i) is a class A misdemeanor.~~

~~(b) (i) If an on-premise beer retailer purchases beer under this Subsection ~~[(7) (6)~~ from~~

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a beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the on-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the on-premise beer retailer as provided in Section 32B-13-301.

(ii) Violation of Subsection [~~(7)~~] (6)(b)(i) is a class B misdemeanor.

~~[(8)]~~ (7) A tavern shall comply with Section 32B-1-407.

Section 39. Section **32B-6-905** is amended to read:

32B-6-905. Specific operational requirements for a beer-only restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

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

- (i) a beer-only restaurant licensee;
- (ii) individual staff of a beer-only restaurant licensee; or
- (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of beer ordered or consumed.

(5) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.

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(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer for on-premise consumption except after the beer-only restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~[(b)]~~ (c) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) A patron may not have more than two beers at a time before the patron.

(9) A patron may consume a beer on the beer-only restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a grandfathered bar structure; or

(iii) a counter; and

(b) where food is served.

(10) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.

(b) Notwithstanding Subsection (10)(a), at a grandfathered bar structure, a patron who is 21 years ~~[of age]~~ old or older may:

(i) sit;

(ii) be furnished a beer; and

(iii) consume a beer.

(c) Except as provided in Subsection (10)(d), at a grandfathered bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

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(ii) consume food or beverages.

(d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a beer-only restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from an area that is:

(i) a grandfathered bar structure; or

(ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the beer-only restaurant licensee uses a beer that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the beer is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years ~~of age~~ old or older.

(13) Except as provided in Subsection 32B-6-905.1(15) and Section 32B-6-905.2, the

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provisions of this section apply before July 1, 2018.

Section 40. Section **32B-6-905.1** is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

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

- (i) a beer-only restaurant licensee;
- (ii) individual staff of a beer-only restaurant licensee; or
- (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- (i) as a flavoring on a dessert; or
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(6) (a) A beer-only restaurant licensee may not furnish beer for on-premise consumption except after:

- (i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

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- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure that is located in a dispensing area; and
- (ii) the beer-only restaurant licensee confirms that the patron intends to:
 - (A) order food prepared, sold, and furnished at the licensed premises; and
 - (B) except as provided in Subsection (6)(b), consume the food at the same location

where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

~~(c)~~ (d) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(7) A patron may consume a beer on the beer-only licensee's licensed premises only at:

- (a) a table that is located in a dining area or a dispensing area;
- (b) a counter that is located in a dining area or a dispensing area; or
- (c) a dispensing structure located in a dispensing area.

(8) A patron may not have more than two beers at a time before the patron.

(9) In accordance with the provisions of this section, an individual who is at least 21 years ~~[of age]~~ old may consume food and beverages in a dispensing area.

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(10) (a) Except as provided in Subsection (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years [~~of age~~] old and working as an employee of the beer-only restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee;

and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

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(14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once [~~each calendar year~~] annually.

(15) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 41. Section **32B-6-905.2** is amended to read:

32B-6-905.2. Transition process for beer-only restaurant licensees.

(1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only restaurant licensee shall comply with the provisions of Section 32B-6-905.1.

(2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only restaurant licensee changes the beer-only restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-905.1, the beer-only restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-905.1 on

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or before July 1, 2018.

(b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-905.1 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the beer-only restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the beer-only restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 42. Section **32B-6-1005** is amended to read:

32B-6-1005. Specific operational requirements for hospitality amenity license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

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Requirements, a hospitality amenity licensee and staff of the hospitality amenity licensee shall comply with this section.

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

- (i) the hospitality amenity licensee;
- (ii) individual staff of the hospitality amenity licensee; or
- (iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

- (i) to a hospitality guest; and
- (ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

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(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

- (i) begins at 1:00 a.m.; and
- (ii) ends at 9:59 a.m.

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest in or on the hospitality amenity licensed premises may finish consuming:

- (i) a single drink containing spirituous liquor;
- (ii) a single serving of wine not exceeding five ounces;
- (iii) a single serving of heavy beer;
- (iv) a single serving of beer not exceeding 26 ounces; or
- (v) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

- (i) after all individuals have vacated the licensee's licensed premises; or
- (ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an alcoholic product free of charge or at a reduced rate, if:

- (i) the alcoholic product is not a spirituous liquor; and
- (ii) the hospitality amenity licensee offers the alcohol product:
 - (A) to all hospitality guests;
 - (B) during a specific time; and
 - (C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to

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provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) [~~A~~] Notwithstanding Section 32B-5-307, a hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under Section 32B-5-302; and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative

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(b) The department shall audit the records of a hospitality amenity licensee at least once [~~each calendar year~~] annually.

Section 43. Section **32B-7-202** is amended to read:

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

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

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years [~~of age~~] old or older who is on the licensed premises; and

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(ii) the minor is at least 16 years [~~of age~~] old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

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

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

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

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

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

- (A) is prominent;
- (B) is easily readable by a consumer;
- (C) meets the requirements for format established by the commission by rule; and
- (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

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

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

- (i) a malt cooler; or
 - (ii) a beverage that may provide energy.
- (d) A violation of this Subsection (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i)

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apply on and after May 9, 2017.

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

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

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

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

(i) full name;

(ii) address; and

(iii) (A) driver license number; or

(B) similar identification number.

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

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

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

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a

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drive through window.

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

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section 76-10-1101; or

(ii) fringe gambling, as defined in Section 76-10-1101;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

Section 44. Section **32B-7-305** is amended to read:

32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.

~~[(1) A local authority that pursuant to this part adjudicates an administrative penalty for a violation of a law involving the sale of an alcoholic product to a minor, shall:]~~

~~[(a) maintain a record of an adjudicated violation until the record is expunged under Subsection (3);]~~

~~[(b) include in the record described in Subsection (1)(a):]~~

~~[(i) the name of the individual who commits the violation;]~~

~~[(ii) the name of the off-premise beer retailer for whom the individual is a staff member at the time of the violation; and]~~

~~[(iii) the date of the adjudication of the violation; and]~~

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~~[(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days of the date on which a violation is adjudicated.]~~

~~[(2)(a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the violation history information received under Subsection (1).]~~

~~[(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:]~~

~~[(i) assist a local authority in assessing administrative penalties under Section 32B-7-303; and]~~

~~[(ii) inform an off-premise beer retailer of an individual who has an administrative violation history under Section 32B-7-303.]~~

~~[(c) The Department of Public Safety shall maintain a record of violation history information received pursuant to Subsection (1) until the record is expunged under Subsection (3).]~~

~~[(3)(a) A local authority and the Department of Public Safety shall expunge from the records maintained an administrative penalty imposed under Section 32B-7-303 for purposes of determining future administrative penalties under Section 32B-7-303 if the individual has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.]~~

~~[(b) A local authority shall expunge from the records maintained by the local authority an administrative penalty imposed under Section 32B-7-303 against an off-premise beer retailer for purposes of determining future administrative penalties under Section 32B-7-303 if the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the off-premise beer retailer or staff of the off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.]~~

~~[(4)] (1) The Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:~~

~~(a) for the actual costs of an alcohol-related compliance check investigation conducted~~

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pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection ~~[(4)]~~ (1)(a);

(c) if the municipal or county law enforcement agency completes and submits to the Department of Public Safety a report within 90 days ~~[of]~~ after the day on which the compliance check investigation described in Subsection ~~[(4)]~~ (1)(a) occurs in a format required by the Department of Public Safety; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection ~~[(4)]~~ (1)(c) until the amount allocated by the Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.

~~[(5) The Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:]~~

~~[(a) compliance check investigations reimbursed under Subsection (4); and]~~

~~[(b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).]~~

(2) By no later than October 1 of each year, the Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory Council on the compliance check investigations:

(a) funded during the previous fiscal year; and

(b) reimbursed under Subsection (1).

Section 45. Section **32B-8-201** is amended to read:

32B-8-201. Commission's power to issue a resort license.

(1) Before a person as a resort under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a resort license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a resort license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a resort designated in the resort license if the person operates at least four sublicenses under the resort license.

(b) A resort license shall:

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(i) consist of:

(A) a general resort license; and

(B) four or more sublicenses; and

(ii) designate the boundary of the resort building.

(c) This chapter does not prohibit an alcoholic product in or on the boundary of the resort building to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of resort licenses that at any time totals more than [~~four~~] eight.

Section 46. Section **32B-8b-301** is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

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

(i) the hotel licensee;

(ii) individual staff of the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements

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described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of the hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

Section 47. Section **32B-8c-202** is amended to read:

32B-8c-202. Specific licensing requirements for arena license.

(1) To obtain an arena license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of the arena to any community location;

(ii) that each proposed sublicense premises is entirely within the arena; and

(iii) that the building designated in the application as the arena qualifies as an arena;

and

(b) a description and map of the arena.

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(2) (a) An arena license expires on October 31 of each year.

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

(3) (a) The nonrefundable application fee for an arena license is \$500.

(b) The initial license fee for an arena license is calculated as follows:

(i) if the person applies for three sublicenses under the arena license, \$5,000; or

(ii) if the person applies for more than three sublicenses under the arena license, the sum of:

(A) \$5,000; and

(B) \$1,000 for each sublicense in excess of three sublicenses for which the person applies.

(c) The renewal fee for an arena license is \$1,000 plus \$1,000 for each sublicense under the arena license.

(4) (a) The bond amount required for an arena license is the penal sum of \$100,000.

(b) An arena licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the arena licensee shall cover each sublicense under the arena license.

(5) [~~In accordance with Subsection 32B-8d-103(4)~~] Except as prohibited in Subsection 32B-1-202.1(4), an arena may request to add a sublicense after the commission issues the arena licensee's arena license, in accordance with Subsection 32B-8d-103(4).

Section 48. Section **32B-8d-102** is amended to read:

32B-8d-102. Definitions.

As used in this chapter:

~~[(1) "Resident" means the same as that term is defined in Section 32B-8-102.]~~

(1) "Boundary of a hotel" means the same as that term is defined in Section 32B-8b-102.

(2) "Boundary of a resort building" means the same as that term is defined in Section 32B-8b-102.

(3) "Hotel" means the same as that term is defined in Section 32B-8b-102.

~~[(2)]~~ (4) "Resort building" means the same as that term is defined in Section 32B-8-102.

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~~[(3)]~~ (5) [~~"Resort spa"~~] "Spa" means a spa:

(a) as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) that is within the:

(i) boundary of a resort building[-]; or

(ii) boundary of a hotel.

Section 49. Section **32B-8d-103** is amended to read:

32B-8d-103. Commission's power to issue a sublicense.

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

(a) this chapter;

(b) Chapter 8, Resort License Act;

(c) Chapter 8b, Hotel License Act; and

(d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

(i) a principal licensee; or

(ii) a person seeking a principal license, contingent on the issuance of the principal license.

(b) The commission may not:

(i) issue a sublicense that is separate from a principal license; or

(ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) (a) [~~Subject to Subsections (3)(b) and (c)~~] Except as provided in Subsection (3)(b), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

~~[(b) If a principal license includes a bar establishment sublicense that before the issuance of the principal license was a bar establishment license, the commission shall include~~

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~~the bar establishment sublicense as a bar establishment license in calculating the total number of licenses issued under the provisions applicable to a bar establishment license.]~~

~~(c)~~ (b) If a resort license includes a sublicense that before the issuance of the resort license was a retail license that was not a bar establishment license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.

(4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:

- (a) a nonrefundable \$300 application fee;
- (b) an initial license fee of \$2,250, which the commission shall refund if the commission does not issue the proposed sublicense;
- (c) written consent of the local authority;
- (d) a copy of:
 - (i) the principal licensee's current business; and
 - (ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;
- (e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;
- (f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:
 - (i) each location at which the principal licensee proposes that an alcoholic product be stored; and
 - (ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;
- (g) evidence that the principal licensee carries:
 - (i) public liability insurance in an amount and form satisfactory to the department; and
 - (ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;
- (h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an

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unrestricted right to enter the proposed sublicensed premises;

(i) if the principal licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

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

Section 50. Section **32B-8d-104** is amended to read:

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

(1) Except as provided in Subsections (2) through (4), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

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

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

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

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

(i) that is adjacent to the other; and

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

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

(i) the sublicensee is:

(A) a full-service restaurant sublicensee;

(B) a limited-service restaurant sublicensee;

(C) a bar establishment sublicensee;

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- (D) a beer-only restaurant sublicensee; or
- (E) an on-premise beer retailer sublicensee;
- (ii) the individual staff carries the alcoholic beverage:
 - (A) from the sublicensed premises of a sublicensee described in Subsection (4)(b)(i);
 - (B) briefly through an unlicensed area or briefly through sublicensed premises on which the type of alcoholic beverage that the individual staff carries is permitted; and
 - (C) to the sublicensed premises of a sublicensee described in Subsection (4)(b)(i); and
- (iii) the individual staff at all times stays within:
 - (A) the boundary of the hotel~~[, as defined in Section 32B-8b-102]~~; or
 - (B) the boundary of the resort building~~[, as defined in Section 32B-8-102]~~.
- (5) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:
 - (a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and
 - (b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

Section 51. Section **32B-8d-201** is amended to read:

32B-8d-201. Title.

This part is known as "[Resort] Spa Sublicense."

Section 52. Section **32B-8d-202** is amended to read:

32B-8d-202. Commission's power to issue a spa sublicense.

- (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a [resort] spa sublicensee, a resort licensee, a hotel licensee, or a person applying for a resort license or a hotel license shall first obtain a [resort] spa sublicense from the commission in accordance with this part.
- (2) The commission may only issue a [resort] spa sublicense to:
 - (a) a resort licensee; ~~[or]~~
 - (b) a hotel licensee;
 - ~~(b)~~ (c) a person applying for a resort license, contingent on the issuance of the resort license~~[-]; or~~
 - (d) a person applying for a hotel license, contingent on the issuance of the hotel license.

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(3) ~~[The resort]~~ A spa sublicense premises shall fall entirely within the:

(a) boundary of a resort building that is part of the resort to which the [resort] spa sublicense is connected~~[-]; or~~

(b) boundary of a hotel that is part of the hotel to which the spa sublicense is connected.

Section 53. Section **32B-8d-203** is amended to read:

32B-8d-203. Specific licensing requirements for spa sublicense.

(1) (a) In accordance with Subsection 32B-8d-103(2), a person may not file a written application with the department to obtain a [resort] spa sublicense that is separate from the person's application [of the] for a resort license or a hotel license, unless the person seeks the [resort] spa sublicense after the commission issues the person a resort license or a hotel license.

(b) If a resort licensee or a hotel licensee seeks to add a [resort] spa sublicense after ~~[its] the licensee's~~ resort license or hotel license is issued, the [resort] licensee shall comply with Subsection 32B-8d-103(4).

(2) (a) A [resort] spa sublicense expires on October 31 of each year.

(b) ~~[A resort licensee desiring to renew the resort licensee's resort]~~ To renew a spa sublicense, the corresponding resort licensee or hotel licensee shall renew the [resort] spa sublicense as part of renewing the licensee's resort license or hotel license.

(c) (i) Failure of a resort licensee to meet the renewal requirements for a resort license results in an automatic forfeiture of the [resort] spa sublicense effective ~~[on the date]~~ the day on which the resort license expires.

(ii) Failure of a hotel licensee to meet the renewal requirements for a hotel license results in an automatic forfeiture of the spa sublicense effective the day on which the hotel license expires.

Section 54. Section **32B-8d-204** is amended to read:

32B-8d-204. Specific qualifications for a spa sublicense.

(1) A person employed to act in a supervisory or managerial capacity for the [resort] spa sublicense is subject to qualification requirements of Section 32B-1-304 for licensees.

(2) If a person no longer possesses the qualifications required by Section 32B-1-304 for obtaining the ~~[resort license or resort]~~ spa sublicense or the corresponding resort license or hotel license, the commission may suspend or revoke the [resort] spa sublicense that is part of

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the resort license or hotel license.

Section 55. Section **32B-8d-205** is amended to read:

32B-8d-205. Specific operational requirements for a spa sublicense.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee [~~and~~], staff of the resort licensee, a hotel licensee, and staff of the hotel licensee, shall comply with this section.

(b) A [~~resort~~] spa sublicensee or a person otherwise operating under a [~~resort~~] spa sublicense and staff of a [~~resort~~] spa sublicensee or a person otherwise operating under a [~~resort~~] spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the [~~resort~~] spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

(c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a resort licensee;

(ii) staff of [~~the~~] a resort licensee;

(iii) a hotel licensee;

(iv) staff of a hotel licensee;

~~[(iii)]~~ (v) a [~~resort~~] spa sublicensee or person otherwise operating under a [~~resort~~] spa sublicense;

~~[(iv)]~~ (vi) individual staff of a [~~resort~~] spa sublicensee or person otherwise operating under a [~~resort~~] spa sublicense; or

~~[(v)]~~ (vii) any combination of the persons listed in Subsections (1)(c)(i) through ~~[(iv)]~~ (vi).

(2) (a) For purposes of the [~~resort~~] spa sublicense, the corresponding resort licensee or hotel licensee shall ensure that a record is maintained or used for the [~~resort~~] spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A [~~resort~~] spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

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(c) A resort licensee or a hotel licensee shall allow the department, through a compliance officer of the department, to audit the records for a [resort] spa sublicense at the times the department considers advisable.

(d) The department shall audit the records for a [resort] spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A [resort] spa sublicensee or person operating under a [resort] spa sublicense may not sell, offer for sale, or furnish liquor at a [resort] spa during a period that:

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

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

(b) A [resort] spa sublicensee or person operating under a [resort] spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a [resort] spa shall remain open for one hour after the [resort] spa ceases the sale and furnishing of an alcoholic product during which time a person at the [resort] spa may finish consuming:

(A) a single drink containing spirituous liquor;

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

(C) a single serving of heavy beer;

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

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

(ii) A [resort] spa is not required to remain open:

(A) after all individuals have vacated the [resort] spa sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on the sublicensed premises of a [resort] spa sublicense unless accompanied by an individual 21 years [of age] old or older.

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a [resort] spa sublicense:

(i) may only be admitted into or be on a lounge or bar area of the [resort] spa

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sublicensee's sublicensed premises momentarily while en route to another area of the [resort] spa; and

(ii) may not remain or sit in the lounge or bar area of the [resort] spa sublicensee's sublicensed premises.

(5) A [resort] spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the [resort] spa sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A [resort] spa patron may not have two spirituous liquor drinks before the [resort] spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A [resort] spa sublicensee or person operating under a [resort] spa sublicense shall have available on the [resort] spa sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the [resort] spa sublicensee including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(9) (a) A resort licensee or hotel licensee shall own or lease premises suitable for the [resort] spa sublicense's activities.

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(b) A resort licensee or hotel licensee may not maintain premises in a manner that barricades or conceals the [resort] spa sublicense's operation.

(10) Subject to the other provisions of this section, a [resort] spa sublicensee or person operating under a [resort] spa sublicense may not sell an alcoholic product to or allow an individual to be admitted to or use the [resort] spa sublicensee's sublicensed premises other than:

- (a) a resident; or
- (b) a customer.

Section 56. Section **32B-9-303** is amended to read:

32B-9-303. Director's power to issue single event permit.

(1) Before a person may sell, offer for sale, or furnish liquor at retail for on-premise consumption at an event, the person shall first obtain a single event permit from the director in accordance with this part.

(2) (a) Subject to Subsection (5), the director may issue a single event permit to any of the following that is conducting a convention, civic, or community enterprise, a bona fide:

- (i) partnership;
- (ii) corporation;
- (iii) limited liability company;
- (iv) religious organization;
- (v) political organization;
- (vi) incorporated association;
- (vii) recognized subordinate lodge, chapter, or other local unit of an entity described in this Subsection (2)(a);
- (viii) state agency; or
- (ix) political subdivision of the state.

(b) The director may not issue a single event permit to an entity that has not been in existence as a bona fide entity for at least one year before the day on which the entity applies for a single event permit.

(3) (a) A single event permit may authorize:

(i) the storage, sale, offering for sale, furnishing, and consumption of liquor at an event at which the storage, sale, offering for sale, furnishing, or consumption of liquor is otherwise

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prohibited by this title under either:

(A) a 120 hour single event permit; or

(B) a 72 hour single event permit; and

(ii) the storage, sale, offer for sale, furnishing, and consumption of beer at the same event for the period that the storage, sale, offer for sale, furnishing, or consumption of liquor is authorized under Subsection (3)(a)(i) for the single event permit.

(b) The single event permit shall state in writing whether [it] the single event permit is:

(i) a 120 hour single event permit; or

(ii) a 72 hour single event permit.

(4) The director may not issue more than:

(a) four single event permits in any one calendar year to the same person listed in Subsection (2) if one or more of the single event permits is a 120 hour single event permit; or

(b) [12] 24 single event permits in any one calendar year to the same person listed in Subsection (2) if each of the single event permits issued to that person is a 72 hour single event permit.

(5) Before the director issues or denies the issuance of a single event permit under this section, the director shall comply with Section 32B-9-202.

Section 57. Section **32B-10-206** is amended to read:

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

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

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

(i) a special use permittee;

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

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

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

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a

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special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

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

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

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

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

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

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

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

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

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

(a) application; or

(b) change of location request, as described in Section 32B-10-305, if:

(i) the special use permittee is a public service permittee; and

(ii) the commission approved the special use permittee's change in location request.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or

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furnish an alcoholic product to:

- (a) a minor;
 - (b) a person actually, apparently, or obviously intoxicated;
 - (c) a known interdicted person; or
 - (d) a known habitual drunkard.
- (7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 3, Alcohol License Change of Location.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 2, Alcohol License Changes of Ownership.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

- (a) physical facilities;
- (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

Section 58. Section **32B-11-208** is amended to read:

32B-11-208. General operational requirements for manufacturing license.

(1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.

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

- (i) a manufacturing licensee;

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- (ii) individual staff of a manufacturing licensee; or
- (iii) a manufacturing licensee and staff of the manufacturing licensee.

(2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.

(3) (a) A manufacturing licensee shall make and maintain the records required by the department.

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

(4) A manufacturing licensee may not sell liquor within the state except to:

- (a) the department; or
- (b) a military installation.

(5) A manufacturing license may not be transferred from one location to another location, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 3, Alcohol License Change of Location.

(6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 2, Alcohol License Changes of Ownership.

(b) A manufacturing license has no monetary value for any type of disposition.

(7) A manufacturing licensee may not advertise the manufacturing licensee's product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.

(8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:

- (a) for sale; or
- (b) in the course of manufacture for sale in this state.

(9) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a manufacturing licensee relating to:

- (a) physical facilities;

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- (b) conditions of storage, sale, or manufacture of an alcoholic product;
- (c) storage and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

Section 59. Section **32B-11-303** is amended to read:

32B-11-303. Specific authority and operational requirements for winery manufacturing license.

(1) A winery manufacturing license allows a winery manufacturing licensee to:

- (a) store, manufacture, transport, import, or export wine;
- (b) sell wine at wholesale to:

(i) the department; and [to]

(ii) an out-of-state [customers] customer who is at least 21 years old, as the state in which the customer is located permits;

(c) purchase liquor for fortifying wine, if the department is notified of the purchase and date of delivery; and

(d) warehouse on the licensed premises liquor that is manufactured or purchased for manufacturing purposes.

(2) (a) A wine, brandy, wine spirit, or other liquor imported under authority of a winery manufacturing license shall conform to the standards of identity and quality established in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(b) The federal definitions, standards of identity, and quality and labeling requirements for wine, in regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with the laws of this state.

(3) If considered necessary, the commission or department may require:

- (a) the alteration of the plant, equipment, or licensed premises;
- (b) the alteration or removal of unsuitable wine-making equipment or material;

(c) a winery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and wine-making equipment;

(d) that a marc, pomace, or fruit be destroyed, denatured, or removed from the licensed premises because it is considered:

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- (i) unfit for wine making; or
- (ii) as producing or likely to produce an unsanitary condition;
- (e) a winery manufacturing licensee to distill or cause to be distilled or disposed of

under the department's supervision:

- (i) any unsound, poor quality finished wine; or
- (ii) unfinished wine that will not be satisfactory when finished; or
- (f) that a record pertaining to the grapes and other materials and ingredients used in the

manufacture of wine be available to the commission or department upon request.

(4) A winery manufacturing licensee may not permit wine to be consumed on [its] the winery manufacturing licensee's premises, except [~~under the following circumstances~~] that:

(a) [~~A~~] a winery manufacturing licensee may allow [its] the winery manufacturing licensee's on-duty staff to taste on the licensed premises the alcoholic product that the winery manufacturing licensee manufactures on [its] the winery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise[-];

(b) [~~A~~] a winery manufacturing licensee may allow a person who can lawfully purchase wine for wholesale or retail distribution to consume a bona fide sample of the winery manufacturing licensee's product on the licensed premises[-]; and

(c) [~~A~~] a winery manufacturing licensee may conduct [tastings] a tasting as provided in Section 32B-11-210.

Section 60. Section **32B-11-403** is amended to read:

32B-11-403. Specific authority and operational requirements for distillery manufacturing license.

(1) A distillery manufacturing license allows a distillery manufacturing licensee to:

(a) store, manufacture, transport, import, or export liquor;

(b) sell liquor to:

(i) the department;

(ii) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits; and

(iii) as provided in Subsection (2);

(c) purchase an alcoholic product for mixing and manufacturing purposes if the

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department is notified of:

- (i) the purchase; and
- (ii) the date of delivery;

(d) warehouse on the distillery manufacturing licensee's licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes;

(e) if the distillery manufacturing licensee holds two or more distillery manufacturing licenses under this chapter, transport an alcoholic product from one of the distillery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

- (i) continuing or completing the manufacturing process; or
- (ii) storing a bulk container or an alcoholic product that is distilled and packaged in the state, including the transport of an alcoholic product to a package agency located at any of the distillery manufacturing licensee's licensed premises; and

(f) receive samples of an alcoholic product from a person outside the state for the sole purpose of performing tests and analysis, if the distillery manufacturing licensee:

- (i) performs the tests and analysis in accordance with 27 C.F.R. Secs. 19.434(a), (c), (d), (e), and (f), Secs. 19.435 through 19.437, and Sec. 19.616;
- (ii) keeps records of the samples received, including:
 - (A) all data required under 27 C.F.R. Sec. 19.616;
 - (B) a description of the sample; and
 - (C) the date the distillery manufacturing licensee receives the sample; and
- (iii) upon request, provides the records described in Subsection (1)(f)(ii) to the

department.

(2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:

- (i) a mechanical or industrial business that requires the use of an alcoholic product; or
- (ii) scientific pursuits that require the use of an alcoholic product.

(b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.

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(c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.

(d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.

(3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with laws of this state.

(4) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of unsuitable alcoholic product-making equipment or material;

(c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be made available to the commission or department upon request.

(5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on the distillery manufacturing licensee's premises, except that:

(a) a distillery manufacturing licensee may allow the distillery manufacturing licensee's on-duty staff to taste on the licensed premises an alcoholic product that the distillery manufacturing licensee manufactures on the distillery manufacturing licensee's licensed premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;

(b) a distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises; and

(c) a distillery manufacturing licensee may conduct [~~tastings~~] a tasting as provided in Section 32B-11-210.

Section 61. Section **32B-11-503** is amended to read:

32B-11-503. Specific authority and operational requirements for brewery

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manufacturing license.

(1) A brewery manufacturing license allows a brewery manufacturing licensee to:

(a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;

(b) sell heavy beer and a flavored malt beverage to:

(i) the department;

(ii) a military installation; or

(iii) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits;

(c) sell beer to a beer wholesaler licensee;

(d) in the case of a small brewer, in accordance with Subsection (5), sell beer manufactured by the small brewer to:

(i) a retail licensee;

(ii) an off-premise beer retailer; or

(iii) an event permittee;

(e) warehouse on [its] the brewery manufacturing licensee's premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes; and

(f) if the brewery manufacturing licensee holds two or more brewery manufacturing licenses, transport beer, heavy beer, or flavored malt beverage from one of the brewery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) transferring the beer, heavy beer, or flavored malt beverage for storage at a licensed premises of the brewery manufacturing licensee that is at a package agency.

(2) A brewery manufacturing licensee may not sell the following to a person within the state except the department or a military installation:

(a) heavy beer; or

(b) a flavored malt beverage.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

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(b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;

(c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.

(4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except [~~under the circumstances described in this Subsection (4):~~] that:

(a) [~~A~~] a brewery manufacturing licensee may allow [~~its~~] the brewery manufacturing licensee's on-duty staff to taste the alcoholic product that the brewery manufacturing licensee manufactures on [~~its~~] the brewery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise[~~;~~];

(b) [~~A~~] a brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:

(i) beer;

(ii) heavy beer; or

(iii) a flavored malt beverage[~~;~~];

(c) [~~A~~] a brewery manufacturing licensee may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority[~~;~~]; and

(d) [~~A~~] a brewery manufacturing licensee may conduct [~~tastings~~] a tasting as provided in Section 32B-11-210.

(5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer to be sold to a person described in Subsection (1)(d) if the small brewer:

(i) (A) (I) is located in this state; and

(II) holds a brewery manufacturing license; or

(B) (I) is located outside this state; and

(II) holds a certificate of approval to sell beer in this state; and

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(ii) sells beer manufactured by the small brewer directly to a person described in Subsection (1)(d).

(b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless the beer:

(i) is manufactured by the small brewer; and

(ii) is first placed in the small brewer's warehouse facility in this state.

(c) (i) A small brewer warehouse shall make and maintain complete beer importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.

(ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and

(B) the State Tax Commission.

(iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.

~~[(6) Subject to Subsection (7):]~~

(6) (a) [A] Subject to Subsection (7), a brewery manufacturing licensee may not sell beer in this state except under a written agreement with a beer wholesaler licensee in this state.

(b) An agreement described in Subsection (6)(a) shall:

(i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;

(ii) designate the one or more brands that may be distributed in the sales territory; and

(iii) set forth the exact geographical area of the sales territory.

(c) A brewery manufacturing licensee may have more than one agreement described in ~~[this]~~ Subsection (6)(a) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.

(d) A brewery manufacturing licensee may not enter into an agreement described in Subsection (6)(a) with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.

(7) A small brewer is not subject to the requirements of Subsection (6).

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Section 62. Section **32B-11-504** is amended to read:

32B-11-504. Department's authority regarding small-brewer status.

(1) A brewer seeking to obtain small-brewer status shall provide to the department any documentation or information the department determines necessary to determine if the brewer is part of a controlled group of [~~breweries~~] manufacturers.

(2) The department may revoke a brewer's small-brewer status at any time, if the department determines the brewer does not qualify as a small brewer.

Section 63. ~~Section **32B-12-301** is amended to read:~~

~~**32B-12-301. General operational requirements for liquor warehousing license.**~~

~~(1) (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall comply with this title and the rules of the commission.~~

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

~~(i) a liquor warehouser licensee;~~

~~(ii) individual staff of a liquor warehouser licensee; or~~

~~(iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.~~

~~(2) (a) A liquor warehouser licensee shall make and maintain records required by the department:~~

~~(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2):~~

~~(3) A liquor warehousing license may not be transferred from one location to another location, without prior written approval of the commission.~~

~~(4) (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not:~~

~~(b) A liquor warehousing license has no monetary value for any type of disposition.~~

~~(5) A liquor warehouser licensee may not employ a minor to handle an alcoholic product.~~

~~(6) Liquor that is warehoused in this state and sold to an out-of-state consignee may be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.~~

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~~—— (7) Liquor that is warehoused in this state and sold to the department may be transported only by a motor carrier approved by the department.~~

~~—— (8) Liquor transported to or from a liquor warehouse licensee's licensed premises shall be carried in a sealed conveyance that is made available for inspection by the department while en route within the state.~~

~~—— (9) A liquor warehouse licensee may not ship, convey, distribute, or remove liquor from a warehouse in less than a full case lot.~~

~~—— (10) A liquor warehouse licensee may [not] ship, convey, distribute, or remove liquor from a warehouse to a consignee outside the state [that is not], if the consignee is:~~

~~—— (a) licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled[.]; or~~

~~—— (b) a customer who is at least 21 years old, as the state in which the customer is located permits.~~

~~—— (11) A liquor warehouse licensee may not receive, warehouse, distribute, transport, ship, or convey liquor that the commission has not authorized the liquor warehouse licensee to handle through its warehouse.~~

~~—— (12) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of licensees relating to:~~

~~—— (a) physical facilities;~~

~~—— (b) conditions of storage, distribution, or transport of liquor; and~~

~~—— (c) other matters considered appropriate by the commission.~~

~~—— Section 64.} Section 32B-18-101, which is renumbered from Section 32B-8a-102 is renumbered and amended to read:~~

CHAPTER 18. CHANGE OF ALCOHOL LICENSE OR LOCATION ACT

Part 1. General Provisions

~~[32B-8a-102].~~ 32B-18-101. Definitions.

As used in this chapter:

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

(i) a retail license;

(ii) an off-premise beer retailer state license;

(iii) a brewery manufacturing license;

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- (iv) a distillery manufacturing license;
- (v) a winery manufacturing license; [~~and~~]
- (vi) a liquor warehousing license; and
- ~~[(vi)]~~ (vii) a special use permit that is an industrial or manufacturing use permit.

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

- (i) master full-service restaurant license;
- (ii) master limited-service restaurant license; or
- (iii) master off-premise beer retailer state license.

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

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

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

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

(3) "Interim alcoholic beverage management agreement" means a management agreement:

(a) in connection with:

- (i) a change of ownership in the entity holding an alcohol license; or
- (ii) a transfer of the management of an alcohol license to another entity; and

(b) under which the new owner or new management agrees to perform the operations of the alcohol licensee during the period that:

(i) begins when:

- (A) the change of ownership closes; or
- (B) the new management agreement is executed; and

(ii) ends on the day after the day on which the commission approves the alcohol license for the new owner.

(4) "Inventory transfer agreement" means an agreement under which an alcohol licensee agrees to sell or otherwise transfer all or part of the alcohol licensee's inventory of alcoholic products.

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(5) "Management agreement" means an agreement between two people regarding the operation and management of an alcohol license.

Section ~~{65}~~64. Section **32B-18-201**, which is renumbered from Section 32B-8a-201 is renumbered and amended to read:

Part 2. Alcohol License Changes of Ownership

~~[32B-8a-201].~~ **32B-18-201. Transferability of an alcohol license.**

(1) ~~[(a)]~~ An alcohol license ~~[is]~~:

(a) is not ascribed any value in the sale or transfer of a business entity or the business entity's assets;

(b) is neither tangible nor intangible property to the holder of the license; and

(c) is completely separate from other property of an alcohol licensee.

~~[(b)]~~ (2) ~~[Notwithstanding Subsection (1)(a), the]~~ The Legislature may terminate or modify the existence of any type of alcohol license.

~~[(c)]~~ (3) Except as provided in this ~~[chapter]~~ part, a person may not ~~[(i) transfer an alcohol license from one location to another location; or (ii)]~~ sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the alcohol license to another person whether for monetary gain or not.

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

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

~~[(ii) from one premises of the alcohol licensee to another premises of the alcohol licensee.]~~

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

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

~~[(3) The commission may not approve the transfer of an alcohol license if the~~

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~~transferee or buyer is not eligible to hold the same type of alcohol license as the alcohol license to be transferred at the premises to which the alcohol license would be transferred.;~~

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

~~[(a) federal tax laws;]~~

~~[(b) Title 35A, Chapter 4, Employment Security Act, and]~~

~~[(c) Title 59, Revenue and Taxation.]~~

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

Section ~~66~~65. Section **32B-18-202**, which is renumbered from Section 32B-8a-202 is renumbered and amended to read:

~~[32B-8a-202].~~ **32B-18-202**. **Effect of change of ownership of business entity.**

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is ~~[acquired by or transferred to]~~ restructured to include one or more persons who did not hold the ownership of 51% of those shares of stock on the ~~[date]~~ day on which an alcohol license is issued to the corporation, the corporation shall comply with this chapter to ~~[transfer the alcohol license to the corporation as if the corporation is newly constituted]~~ reflect the restructuring.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is ~~[acquired by or transferred to]~~ restructured to include one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the ~~[date]~~ day on which an alcohol license is issued to the limited partnership, the limited partnership shall comply with this chapter to ~~[transfer the alcohol license to the limited partnership as if the limited partnership is newly constituted]~~ reflect the restructuring.

(c) When the ownership of 51% or more of the interests in a limited liability company is ~~[acquired by or transferred to]~~ restructured to include one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the ~~[date]~~ day on which an alcohol license is issued to the limited liability company, the limited

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liability company shall comply with this chapter to [~~transfer the alcohol license to the limited liability company as if the limited liability company is newly constituted~~] reflect the restructuring.

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

Section ~~{67}~~66. Section **32B-18-203** is enacted to read:

32B-18-203. Application -- Approval process.

(1) (a) A person seeking an alcohol license in accordance with this part that is currently held by another person shall submit to the department:

(i) a written application for a new license in a form prescribed by the department; and

(ii) a fee in accordance with Section 32B-18-207.

(b) If the person seeking an alcohol license as described in Subsection (1) seeks to take over the daily operations of the alcohol license before the commission grants the transfer, the person and the alcohol licensee shall enter into an interim alcoholic beverage management agreement that:

(i) provides for all proceeds from the sale of alcohol, less cost of goods sold, to accrue to the current alcohol licensee;

(ii) provides for the duration of the agreement, that the current alcohol licensee:

(A) shall comply with the requirements of this title that are applicable to the alcohol license; and

(B) in accordance with this title, is subject to disciplinary action by the commission for a violation of this title; and

(iii) the department approves.

(c) If the person seeking an alcohol license as described in Subsection (1) seeks to buy the inventory from the existing licensee, the person and the alcohol licensee shall enter into an inventory transfer agreement that the department approves.

(2) An alcohol licensee seeking to restructure the alcohol licensee's internal ownership of 51% or more shall submit to the department:

(a) a written application in a form prescribed by the department; and

(b) a fee in accordance with Section 32B-18-207.

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(3) A person or business entity shall comply with this section within 60 days after the day on which the sale of the business's assets closes or the restructuring of the business entity becomes effective.

(4) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of an interim alcoholic beverage management agreement.

Section ~~{68}~~67. Section **32B-18-204**, which is renumbered from Section 32B-5-310 is renumbered and amended to read:

~~[32B-5-310].~~ **32B-18-204. Notifying department of change in ownership.**

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

~~[(a)]~~ (1) ownership of the ~~[retail]~~ business entity holding the alcohol license;

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

~~[(c)]~~ (2) for a corporate owner, the:

~~[(i)]~~ (a) corporate officers or directors of the ~~[retail]~~ alcohol licensee; or

~~[(ii)]~~ (b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

~~[(d)]~~ (3) for a limited liability company:

~~[(i)]~~ (a) managers of the limited liability company; or

~~[(ii)]~~ (b) members owning at least 20% of the limited liability company.

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

~~[(3)]~~ A retail licensee may enter into an interim alcoholic beverage management agreement that provides:]

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

~~[(b)]~~ for the duration of the agreement, the current retail licensee:]

~~[(i)]~~ shall comply with the requirements of this title that are applicable to the retail

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license, and]

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

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

~~[(a) an inventory transfer agreement; and]~~

~~[(b) an interim alcoholic beverage management agreement.]~~

Section ~~{69}~~68. Section **32B-18-205** is enacted to read:

32B-18-205. Management agreements -- Inventory transfers.

(1) (a) A management agreement may provide for the sharing of revenue from a business utilizing an alcohol license if, regardless of which party holds the alcohol license, all parties to the management agreement qualify under Section 32B-1-304 to hold the license.

(b) The parties to a management agreement shall submit to the department:

(i) a copy of the management agreement; and

(ii) any other information the department requires.

(c) If there is a material change to the management agreement submitted to the department under Subsection (1)(b), the parties to the management agreement shall submit to the department the following within 30 days after the day on which the change occurs:

(i) a copy of the changed management agreement; and

(ii) any other information the department requires.

(2) Notwithstanding any other provision of this title, in connection with a change of ownership described in Section 32B-18-202 or an asset sale of an alcohol licensee, the parties to the transaction may enter into an inventory transfer agreement.

(3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of:

(a) a management agreement; or

(b) an inventory transfer agreement.

Section ~~{70}~~69. Section **32B-18-206**, which is renumbered from Section 32B-8a-203 is renumbered and amended to read:

~~[32B-8a-203].~~ **32B-18-206. Operational requirements for change of ownership or location.**

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(1) (a) [~~A transferee or buyer shall begin operations of the alcohol license~~] Except as provided in Subsections (1)(b) and (c), operations of an alcohol licensee shall begin within 30 days after the day on which [a transfer is approved by] the commission[~~, except that:~~] approves a change of ownership for the alcohol license.

~~[(i) the]~~ (b) The department may grant an extension of [this] the time period described in Subsection (1)(a) for a period not to exceed the greater of:

(i) 30 days; ~~and~~ or

(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled commission meeting.

~~[(ii) (c) [after the extension is authorized by] After the department [under] authorizes an extension described in Subsection [(1)(a)(i)] (1)(b), the commission may grant one or more additional extensions [not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee or buyer can demonstrate] if:~~

(i) the alcohol licensee demonstrates to the commission that the [transferee or buyer: (A)] alcohol licensee cannot begin operations because the [transferee or buyer] alcohol licensee:

(A) is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection ~~[(1)(a)(ii)(A)] (1)(c)(i)(A)~~, if the respective local ~~[government entity]~~ authority requires a building permit for the improvements; and

(C) is working expeditiously to complete the improvements to the licensed premises~~[-];~~

or

(ii) the commission determines that circumstances beyond the control of the alcohol licensee negate the licensee's ability to begin operations in a timely manner.

~~[(b)] (2) [A transferee or buyer] An alcohol licensee is considered to have begun operations of the alcohol license if the [transferee or buyer] alcohol licensee:~~

~~[(i)] (a)~~ (a) has a licensed premises that is open for business;

~~[(ii) (A)] (b) (i)~~ (b) (i) sells, offers for sale, or furnishes an alcoholic [products] product to a patron on the licensed premises described in Subsection ~~[(1)(b)(i)] (2)(a);~~

~~[(B)] (ii)~~ (ii) manufactures an alcoholic product on the licensed premises described in Subsection ~~[(1)(b)(i)] (2)(a); [or]~~

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~~[(c)]~~ ~~(iii)~~ engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection ~~[(1)(b)(i)]~~ (2)(a); ~~[and] or~~

(iv) warehouses liquor on the licensed premises described in Subsection (2)(a); and

~~[(iii)]~~ (c) has a valid business license.

~~[(2)]~~ (3) If ~~[a transferee or buyer]~~ an alcohol licensee fails to begin operations of the alcohol license within the time period required by Subsection (1), the following are automatically forfeited effective immediately:

(a) the alcohol license; and

(b) the ~~[alcohol license]~~ fee described in Section 32B-18-207.

~~[(3) A transferee or buyer]~~ (4) (a) Except as provided in Subsection (4)(b), if the commission approves a change of ownership, the new owner of the alcohol license shall begin operations of the alcohol license at the location to which the [transfer] alcohol license applies before the [transferee or buyer] new owner may [seek a transfer of] move the alcohol license to a different location in accordance with Part 3, Alcohol License Change of Location.

(b) Subsection (4)(a) does not apply to a new owner of an alcohol license if the commission determines that a bona fide exigent circumstance exists that warrants a change in location before operations begin.

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

Section ~~{71}~~70. Section **32B-18-207**, which is renumbered from Section 32B-8a-303 is renumbered and amended to read:

~~[32B-8a-303].~~ **32B-18-207. Change fees.**

(1) ~~[Except as otherwise provided in this section, the]~~ The department shall charge the following ~~[transfer]~~ fees for a change of ownership under this part:

(a) for a ~~[transfer]~~ change of ownership of an alcohol license from an alcohol licensee to another person, the ~~[transfer]~~ change fee equals the initial license fee amount specified in the relevant chapter or part for the type of alcohol license ~~[that is being transferred]~~ for which the change of ownership occurs; and

~~[(b) for the transfer of an alcohol license from one premises to another premises of the same alcohol licensee, the transfer fee is \$300;]~~

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~~[(e) (b) [subject to Subsections (1)(d) and (2), for a transfer] for a change of ownership described in Section [32B-8a-202] 32B-18-202, the [transfer] change fee equals the renewal fee amount specified in the relevant chapter or part for the type of alcohol license [that is being transferred;] for which the change of ownership occurs.~~

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

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

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

~~[(ii) an alcohol license of a deceased alcohol licensee to:]~~

~~[(A) the one or more surviving partners of the deceased alcohol licensee;]~~

~~[(B) the executor, administrator, or conservator of the estate of the deceased alcohol licensee; or]~~

~~[(C) the surviving spouse of the deceased alcohol licensee, if the deceased alcohol licensee leaves no estate to be administered;]~~

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

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

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

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

~~[(vii) an alcohol license transferred to a revocable living trust if the alcohol licensee is the trustee of the revocable living trust;]~~

~~[(viii) an alcohol license transferred between partners when no new partner is being licensed;]~~

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

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

~~[(A) the transferor or seller; or]~~

~~[(B) the spouse of the transferor or seller;]~~

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

~~[(A) the transferor or seller; or]~~

~~[(B) the spouse of the transferor or seller; or]~~

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

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

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

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

~~[(4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.]]~~

~~(2) The department shall deposit a fee collected under Subsection (1) into the Liquor Control Fund.~~

Section ~~{72}~~71. Section **32B-18-301** is enacted to read:

Part 3. Alcohol License Change of Location

32B-18-301. Change of location provisions.

(1) Except as provided in this part, a person may not move an alcohol license from one location to another.

(2) Before an alcohol licensee moves the alcohol licensee's license from one location to another, the alcohol licensee shall submit to the department:

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- (a) an application for a change of location, in the form the department determines; and
- (b) a change of location fee.

(3) Before the commission approves a change of location requested in accordance with this part, the commission shall:

- (a) ensure that the new location meets the physical requirements for the type of license for which the change of location is requested, including any proximity requirement; and
- (b) consider the locality within which the proposed licensed premises is located, including the relevant factors for the type of license for which the change of location is requested.

Section ~~73~~72. Section **32B-18-302** is enacted to read:

32B-18-302. Operational requirements for change of location.

(1) (a) Except as permitted under Subsections (1)(b) and (c), operations of an alcohol licensee shall begin within 30 days after the day on which the commission approves a change of location for the alcohol license.

(b) The department may grant an extension to the 30 days described in Subsection (1)(a), not to exceed the greater of:

- (i) 30 days; or
- (ii) the number of days until the next regularly scheduled commission meeting.

(c) After the department authorizes an extension described in Subsection (1)(b), the commission may grant one or more additional extensions, if:

(i) the alcohol licensee demonstrates to the commission that the alcohol licensee cannot begin operations because the alcohol licensee:

(A) is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(c)(i)(A), if the respective local authority requires a building permit for the improvements; and

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

or

(ii) the commission determines that circumstances beyond the control of the alcohol licensee negate the licensee's ability to begin operations in a timely manner.

(2) An alcohol licensee is considered to have begun operations of the alcohol license if

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the alcohol licensee:

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

(b) (i) sells, offers for sale, or furnishes an alcoholic product to a patron on the licensed premises described in Subsection (1)(a);

(ii) manufactures an alcoholic product on the licensed premises described in Subsection (2)(a);

(iii) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection (2)(a); or

(iv) warehouses liquor on the licensed premises described in Subsection (2)(a); and

(c) has a valid business license.

(3) If an alcohol licensee fails to begin operations of the alcohol license within the time period required under Subsection (1), the following are automatically forfeited effective immediately:

(a) the alcohol license; and

(b) the change of location fee.

Section ~~{74}~~73. Section **32B-18-303** is enacted to read:

32B-18-303. Change of location fees.

(1) The department shall charge a \$300 fee for a change in location of an alcohol licensee's licensed premises.

(2) The department shall deposit a fee collected under Subsection (1) in the Liquor Control Fund.

Section ~~{75}~~74. Section **32B-18-401**, which is renumbered from Section 32B-8a-501 is renumbered and amended to read:

Part 4. Prohibited Activities

~~[32B-8a-501].~~ **32B-18-401. License not to be pledged as security --**

Prohibited changes, transfers, and moves.

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

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

~~[(a) satisfy a loan or to fulfill an agreement entered into more than 90 days before the~~

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day on which the transfer application is filed;]

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

~~[(c) defraud or injure a creditor of the transferor or seller.]~~

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

~~[(4)]~~ (2) An alcohol licensee may not change, transfer, or move an alcohol license except ~~[in accordance with]~~ as expressly permitted under this chapter.

Section ~~{76}~~75. Section **32B-18-402**, which is renumbered from Section 32B-8a-502 is renumbered and amended to read:

~~[32B-8a-502].~~ **32B-18-402. Effect of change, transfer, or move in violation of this chapter.**

(1) If an alcohol license is changed, transferred, or moved in violation of this chapter, the commission may:

(a) void the change, transfer, or move; and

(b) require the alcohol license to be forfeited.

(2) Subsection (1) is in addition to any other penalty under this title that is applicable to the person who violates this chapter.

Section ~~{77}~~76. Section **34-52-201** is amended to read:

34-52-201. Public employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction;
or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged

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criminal history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage ~~[Control]~~ Services created in Section 32B-2-203;

(g) to the State Tax Commission;

(h) to a public employer whose primary purpose is performing financial or fiduciary functions; and

(i) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

Section ~~{78}~~77. Section **53-2a-802** is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Government Operations, the Department of

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Agriculture and Food, the Alcoholic Beverage ~~[Control]~~ Services Commission, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal

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governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section ~~79~~78. Section **53-8-105** is amended to read:

53-8-105. Duties of Highway Patrol.

In addition to the duties in this chapter, the Highway Patrol shall:

- (1) enforce the state laws and rules governing use of the state highways;
- (2) regulate traffic on all highways and roads of the state;
- (3) assist the governor in an emergency or at other times at his discretion;
- (4) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;
- (5) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;
- (6) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;
- (7) assist the Alcoholic Beverage ~~Control~~ Services Commission in an emergency to enforce the state liquor laws;
- (8) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;
- (9) enforce the state laws and rules governing use of the capitol hill complex as defined in Section 63C-9-102; and
- (10) carry out the following for the Supreme Court and the Court of Appeals:
 - (a) provide security and protection to those courts when in session in the capital city of the state;
 - (b) execute orders issued by the courts; and
 - (c) carry out duties as directed by the courts.

Section ~~80~~79. Section **53-10-102** is amended to read:

53-10-102. Definitions.

As used in this chapter:

- (1) "Administration of criminal justice" means performance of any of the following:

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detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" is as defined in Section 32B-1-102.

(3) "Alcoholic product" is as defined in Section 32B-1-102.

(4) "Commission" means the Alcoholic Beverage [~~Control~~] Services Commission.

(5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.

(6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.

(7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

(8) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

(9) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

(10) "Department" means the Department of Public Safety.

(11) "Director" means the division director appointed under Section 53-10-103.

(12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.

(14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(15) "Mental defective" means an individual who, by a district court, as a result of

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marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:

- (a) to be a danger to himself or herself or others;
- (b) to lack the mental capacity to contract or manage the individual's own affairs;
- (c) to be incompetent by a court in a criminal case; or
- (d) to be incompetent to stand trial or found not guilty by reason or lack of mental

responsibility.

(16) "Missing child" means any person under the age of 18 years who is missing from the person's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the child's care.

(17) "Missing person" is as defined in Section 26-2-27.

(18) "Pathogens" means disease-causing agents.

(19) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

(20) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

- (a) national security interests;
- (b) care, custody, or control of children;
- (c) fiduciary trust over money;
- (d) health care to children or vulnerable adults; or
- (e) the provision of any of the following to a vulnerable adult:
 - (i) care;
 - (ii) protection;
 - (iii) food, shelter, or clothing;
 - (iv) assistance with the activities of daily living; or
 - (v) assistance with financial resource management.

Section ~~{81}~~80. Section **53-10-305** is amended to read:

53-10-305. Duties of bureau chief.

The bureau chief, with the consent of the commissioner, shall do the following:

(1) conduct in conjunction with the state boards of education and higher education in state schools, colleges, and universities, an educational program concerning alcoholic

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beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;

(2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a bar establishment licensee, or a person required to obtain a bar establishment license, as defined in Section 32B-1-102;

(3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage ~~[Control]~~ Services;

(4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and

(5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage ~~[Control]~~ Services as may be required or requested.

Section ~~82~~81. Section **53F-9-304** is amended to read:

53F-9-304. Underage Drinking and Substance Abuse Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking and Substance Abuse Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage ~~[Control]~~ Services deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage ~~[Control]~~ Services shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the Department of Alcoholic Beverage ~~[Control]~~ Services deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the

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percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage ~~Control~~ Services shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The state board shall use money in the account for the Underage Drinking and Substance Abuse Prevention Program described in Section 53G-10-406.

Section ~~83~~ 82. Section **53G-10-406** is amended to read:

53G-10-406. Underage Drinking and Substance Abuse Prevention Program -- State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

(b) a school-based prevention program for students in grade 7 or 8; and

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(c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

(c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage ~~[Control]~~ Services or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective.

(7) (a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the

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program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

(c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section ~~{84}~~83. Section **59-1-403** is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

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(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

- (i) who brings action to set aside or review a tax based on the report or return;
- (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
- (iii) against whom the state has an unsatisfied money judgment.

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(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

- (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the

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manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

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(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification

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number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the

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information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's

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identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage [~~Control~~] Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests

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information in accordance with Subsection (4)(n)(v):

- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (6)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (6)(b).
- (7) Except as provided in Section 59-1-404, this part does not apply to the property tax. Section ~~{85}~~84. Section **59-15-108** is amended to read:

59-15-108. Construction and equipment of establishments.

No brewery or other establishment may be constructed or equipped in a manner which facilitates any breach of this chapter or the rules of the Alcoholic Beverage ~~[Control]~~ Services Commission or State Tax Commission. Any structure or equipment in violation of this section shall be removed by order of the Alcoholic Beverage Control Commission or the State Tax Commission.

Section ~~{86}~~85. Section **62A-1-121** is amended to read:

62A-1-121. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

- (a) the executive director or the executive director's designee;
 - (b) the executive director of the Department of Health or that executive director's designee;
 - (c) the commissioner of the Department of Public Safety or the commissioner's designee;
 - (d) the director of the Department of Alcoholic Beverage ~~[Control]~~ Services or that director's designee;
 - (e) the executive director of the Department of Workforce Services or that executive director's designee;
 - (f) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;
 - (g) the state court administrator or the state court administrator's designee; and
 - (h) the director of the Division of Technology Services or that director's designee.
- (2) The executive director or the executive director's designee shall chair the

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committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the

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calendar year for which the information is collected.

Section ~~{87}~~86. Section **62A-15-401** is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;
and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section 32B-1-701;

(ii) retail staff as defined in Section 32B-1-701; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired;

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or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i) or (ii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall

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consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the

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premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage ~~[Control]~~ Services;

(iv) dealing with the problem customer, including ways to terminate sale or service;

and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage ~~[Control]~~ Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage ~~[Control]~~ Services on request a list of any seminar provider certified by the division; and

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(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar

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in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section ~~88~~87. Section **63A-17-502** is amended to read:

63A-17-502. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

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(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage ~~Control~~ Services, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

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(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the division.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If a department pays a nonexempt employee for overtime, that department shall

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charge that payment to that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The director of the division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if that department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to

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work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

(5) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) (a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource

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systems to accommodate those procedures.

(b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.

(c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section ~~{89}~~88. Section **63A-17-807** is amended to read:

63A-17-807. Department award program.

(1) As used in this section:

(a) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage ~~[Control]~~ Services, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher Education, the State Tax Commission, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) On or before April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for that department from the employees in that department.

(b) On or before July 1 of each year, the department head shall:

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(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to the employees of the department.

(c) Department heads shall make the award to an employee who demonstrates:

(i) extraordinary competence in performing the employee's function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The division shall divide any appropriation for outstanding department employee awards that the division receives from the Legislature equally among the departments.

(b) If a department receives money from the division or if a department budget allows, that department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) A department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for oneself or for any relative as defined in Section 52-3-1.

Section ~~90~~89. Section **63B-3-301** is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

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(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and

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(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to \$5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

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(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage ~~[Control]~~ Services not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

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(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building

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configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks, formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation

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to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the

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Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995

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project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section ~~91~~90. Section **63B-5-201** is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the

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director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of State Parks, formerly known as the Division of Parks and Recreation, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of State Parks, formerly known as the Division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage ~~[Control]~~ Services to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

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- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue

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Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed \$6,000,000 together with additional amounts necessary to:

- (A) pay cost of issuance;
- (B) pay capitalized interest; and
- (C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County

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Courthouse, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Opportunity to seek out the most cost effective and prudent lease purchase plan available.

Section ~~92~~91. Section **63B-10-301** is amended to read:

63B-10-301. Revenue bond authorizations.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,281,000 for the construction of an expansion of the Department of Alcoholic Beverage ~~Control~~ Services warehouse together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage ~~Control~~ Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

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(2) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$957,100 for the acquisition of a site and construction of a store in the western part of Salt Lake County for the Department of Alcoholic Beverage ~~[Control]~~ Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage ~~[Control]~~ Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2).

(3) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,497,700 for the acquisition of a site and construction of a store in the southern part of Salt Lake County for the Department of Alcoholic Beverage ~~[Control]~~ Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage ~~[Control]~~ Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3).

(4) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$100,000,000 for the acquisition and construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Facilities Construction and Management and the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State

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Building Ownership Authority for the construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center.

(d) The anticipated revenue sources for repayment of any obligation created under authority of this section are:

(i) the institutional funds of the University of Utah, including the University's annual distribution of tobacco settlement funds from the state; and

(ii) donations from the Huntsman Cancer Foundation and other donors.

(e) By September 1 of each year of the existence of this revenue bond, the University of Utah shall give an annual report regarding the status of the bond and the bond payments to the Legislative Fiscal Analyst. This report shall be reviewed by the Higher Education Appropriations Subcommittee and the Capital Facilities Appropriation Subcommittee.

(5) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the University Hospital;

(b) University Hospital revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$25,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(6) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Salt Lake Community College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit, revenues, and reserves of Salt Lake Community College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping the remodel of the cafeteria and expansion of the Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide

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up to \$6,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Dixie College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit, revenues, and reserves of Dixie College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the Gardner Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$1,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

Section ~~93~~92. Section **63B-11-701** is amended to read:

63B-11-701. Revenue bond authorizations.

(1) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other than appropriations of the Legislature, to refinance the cost of acquiring, constructing, furnishing, and equipping the East-Campus Central Plant and related energy improvements;

(b) savings in heating and cooling costs be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$33,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Utah State University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of Utah State University, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping research

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and office facilities at its Research Park;

(b) revenues from research activities, the Utah State University Research Foundation, and other institutional funds be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$19,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(3) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Southern Utah University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of Southern Utah University, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping a Student Living and Learning Facility;

(b) student housing and other auxiliary revenues and student building fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$9,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Snow College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Snow College to borrow money on the credit, revenues, and reserves of Snow College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping a Multi-Event Center in Richfield;

(b) usage fees and other operating revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$2,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) It is the intent of the Legislature that the State Building Ownership Authority, under

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the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,836,000 for the acquisition of a site and construction of a store in Tooele for the Department of Alcoholic Beverage [~~Control~~ Services], together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

Section ~~(94)~~93. Section **63B-13-201** is amended to read:

63B-13-201. Revenue bond authorizations -- State Building Ownership

Authority.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,205,000 for the acquisition and construction of five stores for the Department of Alcoholic Beverage [~~Control~~ Services], together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the stores to be addressed through this authorization are:

- (i) a new Park City store;
- (ii) replacement of the Mount Olympus store;
- (iii) replacement of the Ogden City 2nd Street store;
- (iv) replacement of the Ogden Patterson Street store; and
- (v) expansion of the Provo store.

(c) It is the intent of the Legislature that proceeds from the sale of stores replaced through this authorization shall be deposited in the General Fund.

(d) It is further the intent of the Legislature that increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in

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which participation interests may be created, to provide up to \$8,914,000 for the acquisition and construction of a new regional office building in Ogden, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that existing rent budgets be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2).

(3) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$1,450,000 for the acquisition of the leased regional office building and adjacent land in Moab, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that existing rent budgets be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3).

(4) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$7,103,000 for the acquisition of the Tooele Courts building and adjacent land in Tooele City, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that court fees be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (4).

Section ~~95~~94. Section **63B-14-201** is amended to read:

63B-14-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may

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issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$7,867,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that the stores to be addressed through this authorization are:

- (a) a new wine store in the downtown Salt Lake City area;
- (b) a new store in Washington County; and
- (c) a new store in southwest Salt Lake County.

(3) It is the intent of the Legislature that:

(a) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this subsection; and

(b) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~96~~95. Section **63B-15-201** is amended to read:

63B-15-201. Revenue bond authorizations -- State Building Ownership

Authority.

(1) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$7,371,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that the stores to be addressed through this authorization are:

- (a) a new store in the Holladay/Cottonwood area of Salt Lake County;
- (b) expansion and remodel of the Kimball Junction store in Summit County; and
- (c) expansion and remodel of the Redwood Road store in Salt Lake County.

(3) It is the intent of the Legislature that:

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(a) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(b) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{97}~~96. Section **63B-16-201** is amended to read:

63B-16-201. Revenue bond authorizations -- State Building Ownership

Authority.

(1) It is the intent of the Legislature that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,662,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

(i) expansion of the North Temple store in Salt Lake County;

(ii) expansion of the Taylorsville store in Salt Lake County; and

(iii) reconstruction of the Bountiful store in Davis County;

(c) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(d) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) It is the intent of the Legislature that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$1,476,000 for the acquisition and construction of a production warehouse for Utah Correctional Industries, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) Utah Correctional Industries' revenues be used as the primary revenue source for

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repayment of any obligation created under authority of this section;

(c) Utah Correctional Industries may plan, design, and construct the production warehouse subject to requirements in Section 63A-5b-604; and

(d) Utah Correctional Industries may not request state funds for operation and maintenance costs or capital improvements.

Section ~~98~~97. Section **63B-17-201** is amended to read:

63B-17-201. Revenue bond authorizations -- State Building Ownership

Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$90,000,000 for the acquisition and construction of phase II-B of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the University of Utah use institutional funds as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the university may plan, design, and construct phase II-B of a cancer clinical research hospital facility subject to the requirements of Section 63A-5b-604; and

(d) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$23,700,000 for the acquisition and construction of five stores for the Department of Alcoholic Beverage ~~[Control]~~ Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

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- (i) the replacement of a liquor store in Cedar City;
 - (ii) a new Utah County North liquor store;
 - (iii) a new Utah County South liquor store;
 - (iv) a new Washington County South liquor store; and
 - (v) a new Wasatch County Heber/Midway liquor store;
- (c) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section; and
- (d) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{99}~~98. Section **63B-18-201** is amended to read:

63B-18-201. Revenue bond authorizations -- State Building Ownership

Authority.

- (1) The Legislature intends that:
 - (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$3,800,000 for the acquisition of property in the Salt Lake City, Utah area on which to construct a Department of Alcoholic Beverage [~~Control~~] Services warehouse expansion, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements; and
 - (b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section.
- (2) The Legislature intends that:
 - (a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$19,904,000 for the construction of a warehouse expansion for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

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(b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{100}~~99. Section **63B-24-101** is amended to read:

63B-24-101. Revenue bond authorizations -- State Building Ownership

Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$86,936,000 for the Fourth District Provo Courthouse Expansion, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1); and

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$4,447,900 for a West Valley Liquor Store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

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Section ~~{101}~~100. Section **63B-26-101** is amended to read:

63B-26-101. Revenue bond authorizations -- State Building Ownership

Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$3,000,000 for the Fourth District Provo Courthouse parking lot, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements; and

(d) the revenue bond authorized under this Subsection (1) may not be issued until on or after March 1, 2017.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,043,400 for a Syracuse liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{102}~~101. Section **63B-27-201** is amended to read:

63B-27-201. Revenue bond authorizations -- State Building Ownership

Authority.

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(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,451,800 for a Farmington liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,451,800 for a southwest Salt Lake County liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{103}~~102. Section **63B-28-101** is amended to read:

63B-28-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be

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created, to provide up to \$5,451,800 for a Pleasant Grove or Lehi market area liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$10,759,000 for reconstructing the Store 4: Foothill liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{104}~~ 103. Section **63B-29-101** is amended to read:

63B-29-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$10,091,100 for the downtown liquor store relocation, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenue as the

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primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenue.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$14,000,000 for two liquor stores in the Taylorsville and West Valley City market areas, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenue.

Section ~~{105}~~104. Section **63B-31-202** is amended to read:

63B-31-202. State Building Ownership Authority obligations for new state liquor stores.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$11,725,700 for a Salt Lake City market area liquor store in Sugarhouse, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1);

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues; and

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(d) the Department of Alcoholic Beverage [~~Control~~] Services use up to \$5,000,000 to repay the State Store Land Acquisition Fund under Section 32B-2-307.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,524,000 for a Salt Lake City area market liquor store in east Sandy, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section ~~{106}~~105. Section **63G-12-306** is amended to read:

63G-12-306. Penalties.

(1) As used in this section:

(a) "Applicable license" means a license issued under:

(i) Title 32B, Alcoholic Beverage Control Act;

(ii) Title 58, Occupations and Professions; or

(iii) Title 61, Securities Division - Real Estate Division.

(b) "First violation" means the first time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(c) "Second violation" means the second time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(d) "Third or subsequent violation" means a violation of Subsection 63G-12-301(1) committed after a second violation.

(2) (a) On or after the program start date, a private employer who violates Subsection 63G-12-301(1) is subject to a penalty provided in this section under an action brought by the

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department in accordance with Section 63G-12-305.

(b) For a first violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed \$100 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(c) For a second violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed \$500 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(d) For a third or subsequent violation of Subsection 63G-12-301(1), the department shall:

(i) order the revocation of the one or more applicable licenses that are issued to an owner, officer, director, manager, or other individual in a similar position for the private employer for a period not to exceed one year; or

(ii) if no individual described in Subsection (2)(d)(i) holds an applicable license, impose a civil penalty on the private employer not to exceed \$10,000.

(3) (a) If the department finds a third or subsequent violation, the department shall notify the Department of Commerce and the Department of Alcoholic Beverage ~~Control~~ Services once the department's order:

(i) is not appealed, and the time to appeal has expired; or

(ii) is appealed, and is affirmed, in whole or in part on appeal.

(b) The notice required under Subsection (3)(a) shall state:

(i) that the department has found a third or subsequent violation;

(ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is to be revoked; and

(iii) the time period for the revocation, not to exceed one year.

(c) The department shall base its determination of the length of revocation under this section on evidence or information submitted to the department during the action under which a third or subsequent violation is found, and shall consider the following factors, if relevant:

(i) the number of unauthorized aliens who do not hold a permit that are employed by the private employer;

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- (ii) prior misconduct by the private employer;
- (iii) the degree of harm resulting from the violation;
- (iv) whether the private employer made good faith efforts to comply with any applicable requirements;
- (v) the duration of the violation;
- (vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and
- (vii) any other factor the department considers appropriate.

(4) Within 10 business days of receipt of notice under Subsection (3), the Department of Commerce and the Department of Alcoholic Beverage ~~Control~~ Services shall:

(a) (i) if the Department of Commerce or Alcoholic Beverage ~~Control~~ Services Commission has issued an applicable license to an individual described in Subsection (2)(d)(i), notwithstanding any other law, revoke the applicable license; and

(ii) notify the department that the applicable license is revoked; or

(b) if the Department of Commerce or Alcoholic Beverage ~~Control~~ Services Commission has not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the department that an applicable license has not been issued to an individual described in Subsection (2)(d)(i).

(5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the state and the department finds a third or subsequent violation of Subsection 63G-12-301(1), the department shall notify the Utah State Bar of the third and subsequent violation.

Section ~~63I-5-106~~ 106. Section **63I-5-201 (Superseded 07/01/22)** is amended to read:

63I-5-201 (Superseded 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

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(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage ~~[Control]~~ Services shall establish an internal audit program under the direction of the Alcoholic Beverage ~~[Control]~~ Services Commission.

Section ~~{108}~~107. Section **63I-5-201 (Effective 07/01/22)** is amended to read:

63I-5-201 (Effective 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an

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internal audit program.

(3) (a) Utah Tech University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage ~~[Control]~~ Services shall establish an internal audit program under the direction of the Alcoholic Beverage ~~[Control]~~ Services Commission.

Section ~~†109~~108. Section **63J-1-219** is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage ~~[Control]~~ Services, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Opportunity, the Public Service Commission, the Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or

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before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

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(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section ~~110~~109. Section **63J-1-602.2** is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

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- (13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- (14) Funds that the Department of Alcoholic Beverage ~~[Control]~~ Services retains in accordance with Subsection [~~32B-2-301(9)(a)~~] 32B-2-301(8)(a) or (b).
- (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.
- (16) The Utah National Guard, created in Title 39, Militia and Armories.
- (17) The State Tax Commission under Section 41-1a-1201 for the:
 - (a) purchase and distribution of license plates and decals; and
 - (b) administration and enforcement of motor vehicle registration requirements.
- (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
- (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.
- (21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.
- (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.
- (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.
- (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- (27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.
- (28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- (29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural

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Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section ~~{111}~~110. Section **67-22-2** is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

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- (iv) director, Department of Alcoholic Beverage [~~Control~~] Services;
- (v) commissioner of the Department of Financial Institutions;
- (vi) executive director, Department of Commerce;
- (vii) executive director, Commission on Criminal and Juvenile Justice;
- (viii) adjutant general;
- (ix) executive director, Department of Cultural and Community Engagement;
- (x) executive director, Department of Corrections;
- (xi) commissioner, Department of Public Safety;
- (xii) executive director, Department of Natural Resources;
- (xiii) executive director, Governor's Office of Planning and Budget;
- (xiv) executive director, Department of Government Operations;
- (xv) executive director, Department of Environmental Quality;
- (xvi) executive director, Governor's Office of Economic Opportunity;
- (xvii) executive director, Department of Workforce Services;
- (xviii) executive director, Department of Health, Nonphysician;
- (xix) executive director, Department of Human Services;
- (xx) executive director, Department of Transportation; [~~and~~]
- (xxi) executive director, Department of Veterans and Military Affairs; and
- (xxii) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201.

(b) "Board or commission executive" means:

- (i) members, Board of Pardons and Parole;
- (ii) chair, State Tax Commission;
- (iii) commissioners, State Tax Commission;
- (iv) executive director, State Tax Commission;
- (v) chair, Public Service Commission; and
- (vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

- (i) before October 31 of each year, recommend to the governor a compensation plan for

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the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

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(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and

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procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section ~~{112}~~111. **Repealer.**

This bill repeals:

Section **32B-8a-101, Title.**

Section **32B-8a-302, Application -- Approval process.**

Section **32B-12-207, Changing location of a warehousing facility.**

Section ~~{113}~~112. **Effective date.**

This bill takes effect on June 1, 2022, with the exception of Section 63I-5-201 (Effective 07/01/22) which takes effect on July 1, 2022.

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