

1 **ALCOHOLIC BEVERAGE RECYCLING REQUIREMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Derek L. Kitchen**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Alcoholic Beverage Control Act regarding recycling for retail
10 licensees and permittees.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires the Alcoholic Beverage Control Commission to make rules establishing a
14 model recycling program for retail licensees and permittees;

15 ▶ requires a retail licensee to separate from other containers, store, and provide for the
16 collection for recycling of each glass bottle containing an alcoholic beverage that
17 the retail licensee sells for consumption on retail licensee's licensed premises;

18 ▶ requires a person to submit a recycling plan as part of the person's application for a
19 retail license;

20 ▶ requires a retail licensee, under certain circumstances, to submit a recycling plan as
21 part of the retail licensee's license renewal;

22 ▶ requires a permittee to separate from other containers, store, and provide for the
23 collection for recycling of each glass bottle containing an alcoholic beverage the
24 event permittee, or a person involved in the sale or furnishing of an alcoholic
25 product at an event, sells or furnishes for consumption at an event;

26 ▶ requires a person to submit a recycling plan as part of the person's application for an
27 event permit; and



28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **32B-5-201**, as last amended by Laws of Utah 2020, Chapter 219

36 **32B-5-202**, as last amended by Laws of Utah 2021, Chapter 291

37 **32B-9-201**, as last amended by Laws of Utah 2020, Chapter 219

38 **32B-9-204**, as last amended by Laws of Utah 2020, Chapter 291

39 ENACTS:

40 **32B-1-209**, Utah Code Annotated 1953

41 **32B-5-312**, Utah Code Annotated 1953



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

44 Section 1. Section **32B-1-209** is enacted to read:

45 **32B-1-209. Model recycling program.**

46 (1) The commission, with the assistance of the department, shall make rules in
47 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a
48 model recycling program for retail licensees and permittees.

49 (2) The model recycling program described in Subsection (1) shall:

50 (a) provide for the separation from other containers, storage, and collection for
51 recycling of each glass bottle containing an alcoholic beverage:

52 (i) a retail licensee furnishes for consumption on the retail licensee's licensed premises;

53 or

54 (ii) a permittee, or a person involved in the sale or furnishing of an alcoholic product at
55 an event, sells or furnishes at an event; and

56 (b) provide options for retail licensees and permittees that reflect variation in local
57 circumstances across the state.

58 Section 2. Section **32B-5-201** is amended to read:

59 **32B-5-201. Application requirements for retail license.**

60 (1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of
61 an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a
62 retail license issued by the commission, notwithstanding whether the person holds a local
63 license or a permit issued by a local authority.

64 (b) Violation of this Subsection (1) is a class B misdemeanor.

65 (2) To obtain a retail license under this title, a person shall submit to the department:

66 (a) a written application in a form prescribed by the department;

67 (b) a nonrefundable application fee in the amount specified in the relevant chapter or
68 part for the type of retail license for which the person is applying;

69 (c) an initial license fee:

70 (i) in the amount specified in the relevant chapter or part for the type of retail license
71 for which the person is applying; and

72 (ii) that is refundable if a retail license is not issued;

73 (d) written consent of the local authority, including, if applicable, consent for each
74 proposed sublicense;

75 (e) a copy of:

76 (i) the person's current business license; and

77 (ii) if the person is applying for a principal license, the current business license for each
78 proposed sublicense, except if the relevant political subdivision determines that the business
79 license for a proposed sublicense is included in the person's current business license;

80 (f) evidence of the proposed retail licensee's proximity to any community location, with
81 proximity requirements being governed by Section [32B-1-202](#);

82 (g) a bond as specified by Section [32B-5-204](#);

83 (h) a floor plan, and boundary map where applicable, of the premises of the retail
84 license and each, if any, accompanying sublicense, including any:

85 (i) consumption area; and

86 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
87 beverage;

88 (i) evidence that the retail licensee carries public liability insurance in an amount and
89 form satisfactory to the department;

90 (j) evidence that the retail licensee carries dramshop insurance coverage of at least:

91 (i) \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

92 (ii) if the retail licensee is a hotel licensee or a resort licensee, \$1,000,000 per

93 occurrence and \$2,000,000 in the aggregate to cover both the principal license and all

94 accompanying sublicenses; or

95 (iii) if the retail licensee is an arena licensee, \$10,000,000 per occurrence and

96 \$20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses.

97 (k) a signed consent form stating that the retail licensee will permit any authorized

98 representative of the commission, department, or any law enforcement officer to have

99 unrestricted right to enter:

100 (i) the premises of the retail licensee; and

101 (ii) if applicable, the premises of each of the retail licensee's accompanying

102 sublicenses;

103 (l) if the person is an entity, proper verification evidencing that a person who signs the

104 application is authorized to sign on behalf of the entity;

105 (m) a responsible alcohol service plan; ~~and~~

106 (n) on or after January 1, 2023, a recycling plan that satisfies the requirements of

107 Section 32B-5-312; and

108 ~~[(n)]~~ (o) any other information the commission or department may require.

109 (3) The commission may not issue a retail license to a person who:

110 (a) is disqualified under Section 32B-1-304; or

111 (b) is not lawfully present in the United States.

112 (4) Unless otherwise provided in the relevant chapter or part for the type of retail

113 license for which the person is applying, the commission may not issue a retail license to a

114 person if the proposed licensed premises does not meet the proximity requirements of Section

115 32B-1-202.

116 Section 3. Section 32B-5-202 is amended to read:

117 **32B-5-202. Renewal requirements.**

118 (1) A retail license expires each year on the day specified in the relevant chapter or part

119 for that type of retail license.

120 (2) (a) To renew a person's retail license, a retail licensee shall submit:

121 (i) a completed renewal application in a form prescribed by the department;
 122 (ii) a renewal fee in the amount specified in the relevant chapter or part for the type of
 123 retail license that the person seeks to renew; [~~and~~]

124 (iii) for a retail license renewal during the year 2023, a recycling plan that satisfies the
 125 requirements of Section 32B-5-312;

126 (iv) for a retail license renewal on or after January 1, 2024, a recycling plan that
 127 satisfies the requirements of Section 32B-5-312, if, since the retail licensee's most recent
 128 application or renewal, the retail licensee:

129 (A) made a substantial change to the retail licensee's recycling plan; or

130 (B) violated Section 32B-5-312; and

131 [(iii)] (v) a responsible alcohol service plan if, since the retail licensee's most recent
 132 application or renewal, the retail licensee:

133 (A) made substantial changes to the retail licensee's responsible alcohol service plan;

134 or

135 (B) violated a provision of this chapter.

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

139 (ii) The commission may:

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

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

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

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

147 Section 4. Section 32B-5-312 is enacted to read:

148 **32B-5-312. Recycling of beverage containers.**

149 (1) Beginning January 1, 2023, a retail licensee shall separate from other containers,
 150 store, and provide for the collection for recycling of each glass bottle containing an alcoholic
 151 beverage that the retail licensee sells or furnishes for consumption on the retail licensee's

152 licensed premises.

153 (2) A retail licensee satisfies the requirement described in Subsection (1) if the retail
154 licensee implements a recycling program that meets the minimum standards of the model
155 recycling program established under Section 32B-1-209.

156 (3) Notwithstanding Section 32B-3-205, the commission may not suspend or revoke a
157 retail license for a violation of this section.

158 Section 5. Section 32B-9-201 is amended to read:

159 **32B-9-201. Application requirements for event permit.**

160 (1) To obtain an event permit, a person shall submit to the department:

161 (a) a written application in a form that the department prescribes;

162 (b) an event permit fee:

163 (i) in the amount specified in the relevant part under this chapter for the type of event
164 permit for which the person is applying; and

165 (ii) that is refundable if an event permit is not issued;

166 (c) written consent of the local authority;

167 (d) a bond as specified by Section 32B-9-203;

168 (e) the times, dates, location, estimated attendance, nature, and purpose of the event;

169 (f) a description or floor plan designating:

170 (i) the area in which the person proposes that an alcoholic product be stored;

171 (ii) the site from which the person proposes that an alcoholic product be sold, offered
172 for sale, or furnished; and

173 (iii) the area in which the person proposes that an alcoholic product be allowed to be
174 consumed;

175 (g) a signed consent form stating that the event permittee will permit any authorized
176 representative of the commission, department, or any law enforcement officer to have
177 unrestricted right to enter the premises during the event;

178 (h) if the person is an entity, proper verification evidencing that a person who signs the
179 application is authorized to sign on behalf of the entity; [~~and~~]

180 (i) if the person applies for the event permit on or after January 1, 2023, a recycling
181 plan that satisfies the requirements of Subsection 32B-9-204(20); and

182 [~~(i)~~] (j) any other information as the commission or department may require.

183 (2) If a person substantially changes the person's application under Subsection (1) after
184 the person initially submits the application, the person shall pay to the department a fee:

- 185 (a) in an amount the department prescribes in accordance with Section 63J-1-504; and
- 186 (b) that is nonrefundable, regardless of whether the department issues an event permit.

187 (3) An entity applying for a permit need not meet the requirements of Subsections
188 (1)(b), (c), and (d) if the entity is:

- 189 (a) a state agency; or
- 190 (b) a political subdivision of the state.

191 (4) The director may not issue an event permit to a person who is disqualified under
192 Section 32B-1-304.

193 (5) (a) The proximity requirements of Section 32B-1-202 do not apply to an event
194 permit.

195 (b) Notwithstanding Subsection (5)(a), nothing in this section prevents the director, the
196 Compliance, Licensing, and Enforcement Subcommittee, or the commission from considering
197 the proximity of an educational, religious, or recreational facility, or any other relevant factor in
198 deciding whether to issue an event permit.

199 Section 6. Section 32B-9-204 is amended to read:

200 **32B-9-204. General operational requirements for an event permit.**

201 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
202 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
203 with this title and rules of the commission.

204 (b) Failure to comply as provided in Subsection (1)(a):

205 (i) may result in:

206 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
207 Enforcement Act, against:

208 (I) an event permittee;

209 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
210 product at the event; or

211 (III) any combination of the persons listed in this Subsection (1)(b);

212 (B) immediate revocation of the event permit;

213 (C) forfeiture of a bond; or

214 (D) immediate seizure of an alcoholic product present at the event; and
215 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
216 event permit for a period of three years from the date of revocation of the event permit.
217 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
218 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.
219 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
220 the specific type of special use permit held by the special use permittee, the relevant part
221 governs.
222 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
223 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
224 relevant part under this chapter for the type of event permit that is held by the event permittee.
225 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
226 event permit held by an event permittee refers to "event permittee," a person involved in the
227 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
228 event permit is issued is subject to the same requirement or prohibition.
229 (3) An event permittee shall display a copy of the event permit in a prominent place in
230 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.
231 (4) An event permittee may not on the premises of the event:
232 (a) engage in or allow any form of gambling, as defined in Section 76-10-1101, or
233 fringe gambling, as defined in Section 76-10-1101;
234 (b) have any fringe gaming device, video gaming device, or gambling device or record
235 as defined in Section 76-10-1101; or
236 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
237 the risking of something of value for a return or for an outcome when the return or outcome is
238 based upon an element of chance, excluding the playing of an amusement device that confers
239 only an immediate and unrecorded right of replay not exchangeable for value.
240 (5) An event permittee may not knowingly allow a person at an event to, in violation of
241 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
242 Paraphernalia Act:
243 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
244 58-37-2; or

245 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
246 Section 58-37a-3.

247 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
248 purchases from:

249 (a) a beer wholesaler licensee;

250 (b) a beer retailer; or

251 (c) a small brewer.

252 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
253 consumption of an alcoholic product purchased for an event in a location other than that
254 described in the application and designated on the event permit unless the event permittee first
255 applies for and receives approval from the director, with the approval of the Compliance,
256 Licensing, and Enforcement Subcommittee, for a change of location.

257 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
258 furnish beer for on-premise consumption:

259 (i) in an open original container; and

260 (ii) in a container on draft.

261 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
262 Subsection (8)(a):

263 (i) in a size of container that exceeds two liters; or

264 (ii) to an individual patron in a size of container that exceeds one liter.

265 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
266 than the cost of the alcoholic product to the event permittee.

267 (b) An event permittee may not sell an alcoholic product at a discount price on any date
268 or at any time.

269 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that
270 encourages overconsumption or intoxication.

271 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or
272 reduced price for only certain hours of the day of an event.

273 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
274 product at the price of a single alcoholic product.

275 (f) An event permittee, or a person operating, selling, offering, or furnishing an

276 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
277 unlimited number of alcoholic products during a set period for a fixed price, unless:

- 278 (i) the alcoholic product is served to a patron at a seated event;
- 279 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
280 furnished; and
- 281 (iii) no person advertises that at the event a person may be sold or furnished an
282 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

283 (g) An event permittee may not engage in a public promotion involving or offering a
284 free alcoholic product to the general public.

285 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

- 286 (a) a minor;
- 287 (b) a person actually, apparently, or obviously intoxicated;
- 288 (c) a known interdicted person; or
- 289 (d) a known habitual drunkard.

290 (11) (a) An alcoholic product is considered under the control of the event permittee
291 during an event.

292 (b) A patron at an event may not bring an alcoholic product onto the premises of the
293 event.

294 (12) An event permittee may not permit a patron to carry from the premises an open
295 container that:

- 296 (a) is used primarily for drinking purposes; and
- 297 (b) contains an alcoholic product.

298 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at
299 an event is considered under the supervision and direction of the event permittee.

300 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
301 an event may not, while on duty:

- 302 (i) consume an alcoholic product; or
- 303 (ii) be intoxicated.

304 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
305 event.

306 (15) The location specified in an event permit may not be changed without prior

307 written approval of the commission.

308 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
309 attempt in any way to dispose of the event permit to another person whether for monetary gain
310 or not.

311 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the
312 consumption of an alcoholic product during a period that:

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

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

315 (b) This Subsection (17) does not preclude a local authority from being more restrictive
316 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic
317 product at an event.

318 (18) A patron may have no more than one alcoholic product of any kind at a time
319 before the patron.

320 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters
321 that consists of text in the following order:

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

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

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

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

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

330 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
331 font style than the text described in Subsections (19)(a)(iv) and (v).

332 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
333 same font size.

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

336 (20) (a) Beginning January 1, 2023, an event permittee shall separate from other
337 containers, store, and provide for the collection for recycling of each glass bottle containing an

338 alcoholic beverage that the event permittee, or a person involved in the sale or furnishing of an
339 alcoholic product at an event, sells or furnishes for consumption at an event.

340 (b) An event permittee satisfies the requirement described in Subsection (20)(a) if the
341 permittee implements a recycling program that meets the minimum standards of the model
342 recycling program established under Section [32B-1-209](#).

343 (c) Notwithstanding Section [32B-3-205](#), the commission may not suspend or revoke an
344 event permit for a violation of Subsection (20)(a).