

**BEER ORDER AND DELIVERY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel K. Briscoe**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill permits an off-premise beer retailer to make off-premise beer deliveries under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits an off-premise beer retailer to make off-premise beer deliveries under certain circumstances;
- ▶ requires the Alcoholic Beverage Services Commission to make administrative rules to establish an application process for off-premise beer deliveries;
- ▶ requires the Division of Substance Abuse and Mental Health to establish training regarding off-premise beer delivery; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**32B-1-102**, as last amended by Laws of Utah 2022, Chapter 447



28           **32B-1-701**, as last amended by Laws of Utah 2022, Chapter 447  
29           **32B-7-202**, as last amended by Laws of Utah 2022, Chapter 447  
30           **62A-15-401**, as last amended by Laws of Utah 2022, Chapter 447



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

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

34           **32B-1-102. Definitions.**

35           As used in this title:

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

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

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

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

- 42           (a) beer; or
- 43           (b) liquor.

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

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

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

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

- 52           (i) except as provided in Subsection (4)(d), an extract;
- 53           (ii) vinegar;
- 54           (iii) preserved nonintoxicating cider;
- 55           (iv) essence;
- 56           (v) tincture;
- 57           (vi) food preparation; or
- 58           (vii) an over-the-counter medicine.

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

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

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

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

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

65 (a) that is managed by:

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

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

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

71 (b) that operates as a venue; and

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

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

75 (8) "Banquet" means an event:

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

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

79 (i) a hotel;

80 (ii) a resort facility;

81 (iii) a sports center;

82 (iv) a convention center;

83 (v) a performing arts facility; or

84 (vi) an arena;

85 (c) for which there is a contract:

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

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

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

91 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter  
92 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

93 (b) "Bar establishment license" includes:

94 (i) a dining club license;

95 (ii) an equity license;

96 (iii) a fraternal license; or

97 (iv) a bar license.

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

100 (11) (a) "Beer" means a product that:

101 (i) contains:

102 (A) at least .5% of alcohol by volume; and

103 (B) no more than 5% of alcohol by volume or 4% by weight;

104 (ii) is obtained by fermentation, infusion, or decoction of:

105 (A) malt; or

106 (B) a malt substitute; and

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

108 (A) beer;

109 (B) ale;

110 (C) porter;

111 (D) stout;

112 (E) lager;

113 (F) a malt;

114 (G) a malted beverage; or

115 (H) seltzer.

116 (b) "Beer" may contain:

117 (i) hops extract; or

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

119 (c) "Beer" does not include:

120 (i) a flavored malt beverage;

- 121 (ii) a product that contains alcohol derived from:
- 122 (A) spirituous liquor; or
- 123 (B) wine; or
- 124 (iii) a product that contains an additive masking or altering a physiological effect of
- 125 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 126 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 127 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 128 (13) "Beer retailer" means a business that:
- 129 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 130 for consumption on or off the business premises; and
- 131 (b) is licensed as:
- 132 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 133 Retailer Local Authority; or
- 134 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 135 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 136 (14) "Beer wholesaling license" means a license:
- 137 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 138 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 139 retail licensees or off-premise beer retailers.
- 140 (15) "Billboard" means a public display used to advertise, including:
- 141 (a) a light device;
- 142 (b) a painting;
- 143 (c) a drawing;
- 144 (d) a poster;
- 145 (e) a sign;
- 146 (f) a signboard; or
- 147 (g) a scoreboard.
- 148 (16) "Brewer" means a person engaged in manufacturing:
- 149 (a) beer;
- 150 (b) heavy beer; or
- 151 (c) a flavored malt beverage.

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

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

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

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

162 (20) "Church" means a building:

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

167 (21) "Commission" means the Alcoholic Beverage Services Commission created in  
168 Section 32B-2-201.

169 (22) "Commissioner" means a member of the commission.

170 (23) "Community location" means:

- 171 (a) a public or private school;
- 172 (b) a church;
- 173 (c) a public library;
- 174 (d) a public playground; or
- 175 (e) a public park.

176 (24) "Community location governing authority" means:

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

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

- 182 (a) a bottle;

- 183 (b) a vessel; or
- 184 (c) a similar item.
- 185 (26) "Controlled group of manufacturers" means as the commission defines by rule
- 186 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 187 (27) "Convention center" means a facility that is:
- 188 (a) in total at least 30,000 square feet; and
- 189 (b) otherwise defined as a "convention center" by the commission by rule.
- 190 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 191 where seating is provided to a patron for service of food.
- 192 (b) "Counter" does not include a dispensing structure.
- 193 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 194 (30) "Department" means the Department of Alcoholic Beverage Services created in
- 195 Section [32B-2-203](#).
- 196 (31) "Department compliance officer" means an individual who is:
- 197 (a) an auditor or inspector; and
- 198 (b) employed by the department.
- 199 (32) "Department sample" means liquor that is placed in the possession of the
- 200 department for testing, analysis, and sampling.
- 201 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 202 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 203 commission as a dining club license.
- 204 (34) "Director," unless the context requires otherwise, means the director of the
- 205 department.
- 206 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 207 title:
- 208 (a) against a person subject to administrative action; and
- 209 (b) that is brought on the basis of a violation of this title.
- 210 (36) (a) Subject to Subsection (36)(b), "dispense" means:
- 211 (i) drawing an alcoholic product; and
- 212 (ii) using the alcoholic product at the location from which it was drawn to mix or
- 213 prepare an alcoholic product to be furnished to a patron of the retail licensee.

- 214 (b) The definition of "dispense" in this Subsection (36) applies only to:
- 215 (i) a full-service restaurant license;
- 216 (ii) a limited-service restaurant license;
- 217 (iii) a reception center license;
- 218 (iv) a beer-only restaurant license;
- 219 (v) a bar license;
- 220 (vi) an on-premise beer retailer;
- 221 (vii) an airport lounge license;
- 222 (viii) an on-premise banquet license; and
- 223 (ix) a hospitality amenity license.
- 224 (37) "Dispensing structure" means a surface or structure on a licensed premises:
- 225 (a) where an alcoholic product is dispensed; or
- 226 (b) from which an alcoholic product is served.
- 227 (38) "Distillery manufacturing license" means a license issued in accordance with
- 228 Chapter 11, Part 4, Distillery Manufacturing License.
- 229 (39) "Distressed merchandise" means an alcoholic product in the possession of the
- 230 department that is saleable, but for some reason is unappealing to the public.
- 231 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail
- 232 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 233 commission as an equity license.
- 234 (41) "Event permit" means:
- 235 (a) a single event permit; or
- 236 (b) a temporary beer event permit.
- 237 (42) "Exempt license" means a license exempt under Section [32B-1-201](#) from being
- 238 considered in determining the total number of retail licenses that the commission may issue at
- 239 any time.
- 240 (43) (a) "Flavored malt beverage" means a beverage:
- 241 (i) that contains at least .5% alcohol by volume;
- 242 (ii) for which the producer is required to file a formula for approval with the federal
- 243 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
- 244 is treated by processing, filtration, or another method of manufacture that is not generally



245 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt  
246 liquor; and

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

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

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

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

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

258 (b) "Furnish" includes to:

259 (i) serve;

260 (ii) deliver; or

261 (iii) otherwise make available.

262 (47) "Guest" means an individual who meets the requirements of Subsection  
263 [32B-6-407\(9\)](#).

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

265 (49) "Health care practitioner" means:

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

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

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

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

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

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

275 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational

276 Therapy Practice Act;

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

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

279 Professional Practice Act;

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

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

282 Practice Act;

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

284 Hygienist Practice Act; and

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

286 Assistant Act.

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

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

289 (ii) is obtained by fermentation, infusion, or decoction of:

290 (A) malt; or

291 (B) a malt substitute.

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

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

294 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

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

296 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

297 (ii) is capable of hosting conventions, conferences, and food and beverage functions

298 under a banquet contract; and

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

300 meals;

301 (B) has at least 1,000 square feet of function space consisting of meeting or dining

302 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

303 (C) if the establishment is located in a small or unincorporated locality, has an

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

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

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

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

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

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

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

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

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

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

322 (a) law; or

323 (b) court order.

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

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

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

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

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

331 (i) an alcoholic product;

332 (ii) a controlled substance;

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

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

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

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

- 338 (a) a department compliance officer; or
- 339 (b) a nondepartment enforcement officer.
- 340 (61) "License" means:
- 341 (a) a retail license;
- 342 (b) a sublicense;
- 343 (c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer
- 344 State License;
- 345 (d) a license issued in accordance with Chapter 11, Manufacturing and Related
- 346 Licenses Act;
- 347 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 348 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 349 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 350 (62) "Licensee" means a person who holds a license.
- 351 (63) "Limited-service restaurant license" means a license issued in accordance with
- 352 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 353 (64) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 354 than a bus or taxicab:
- 355 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 356 barrier;
- 357 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 358 accordance with the business entity's tariff; and
- 359 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 360 to travel to one or more specified destinations.
- 361 (65) (a) (i) "Liquor" means a liquid that:
- 362 (A) is:
- 363 (I) alcohol;
- 364 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 365 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 366 (IV) other drink or drinkable liquid; and
- 367 (B) (I) contains at least .5% alcohol by volume; and
- 368 (II) is suitable to use for beverage purposes.

- 369 (ii) "Liquor" includes:
- 370 (A) heavy beer;
- 371 (B) wine; and
- 372 (C) a flavored malt beverage.
- 373 (b) "Liquor" does not include beer.
- 374 (66) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 375 (67) "Liquor transport license" means a license issued in accordance with Chapter 17,
- 376 Liquor Transport License Act.
- 377 (68) "Liquor warehousing license" means a license that is issued:
- 378 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 379 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 380 storage, sale, or distribution of liquor regardless of amount.
- 381 (69) "Local authority" means:
- 382 (a) for premises that are located in an unincorporated area of a county, the governing
- 383 body of a county;
- 384 (b) for premises that are located in an incorporated city, town, or metro township, the
- 385 governing body of the city, town, or metro township; or
- 386 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
- 387 in a project area plan adopted by the Military Installation Development Authority under Title
- 388 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
- 389 Development Authority.
- 390 (70) "Lounge or bar area" is as defined by rule made by the commission.
- 391 (71) "Malt substitute" means:
- 392 (a) rice;
- 393 (b) grain;
- 394 (c) bran;
- 395 (d) glucose;
- 396 (e) sugar; or
- 397 (f) molasses.
- 398 (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 399 otherwise make an alcoholic product for personal use or for sale or distribution to others.

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

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

- 404 (i) (A) under the control of the United States Department of Defense; or
- 405 (B) of the National Guard;
- 406 (ii) that is located within the state; and
- 407 (iii) including a leased facility.

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

- 409 (i) civil works;
- 410 (ii) a rivers and harbors project; or
- 411 (iii) a flood control project.

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

414 (76) "Minor" means an individual under 21 years old.

415 (77) "Nondepartment enforcement agency" means an agency that:

- 416 (a) (i) is a state agency other than the department; or
- 417 (ii) is an agency of a county, city, town, or metro township; and
- 418 (b) has a responsibility to enforce one or more provisions of this title.

419 (78) "Nondepartment enforcement officer" means an individual who is:

- 420 (a) a peace officer, examiner, or investigator; and
- 421 (b) employed by a nondepartment enforcement agency.

422 (79) "Off-premise beer delivery" means the delivery of beer:

- 423 (a) that an individual orders from an off-premise beer retailer;
- 424 (b) by staff of the off-premise beer retailer; and
- 425 (c) to a location in this state that is off the licensed premises of the off-premise beer  
426 retailer.

427 [~~(79)~~] (80) (a) "Off-premise beer retailer" means a beer retailer who is:

- 428 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 429 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's  
430 premises.

- 431 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 432 [~~(80)~~] (81) "Off-premise beer retailer state license" means a state license issued in  
433 accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 434 [~~(81)~~] (82) "On-premise banquet license" means a license issued in accordance with  
435 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 436 [~~(82)~~] (83) "On-premise beer retailer" means a beer retailer who is:
- 437 (a) authorized to sell, offer for sale, or furnish beer under a license issued in  
438 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer  
439 Retailer License; and
- 440 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's  
441 premises:
- 442 (i) regardless of whether the beer retailer sells beer for consumption off the licensed  
443 premises; and
- 444 (ii) on and after March 1, 2012, operating:
- 445 (A) as a tavern; or
- 446 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 447 [~~(83)~~] (84) "Opaque" means impenetrable to sight.
- 448 [~~(84)~~] (85) "Package agency" means a retail liquor location operated:
- 449 (a) under an agreement with the department; and
- 450 (b) by a person:
- 451 (i) other than the state; and
- 452 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package  
453 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 454 [~~(85)~~] (86) "Package agent" means a person who holds a package agency.
- 455 [~~(86)~~] (87) "Patron" means an individual to whom food, beverages, or services are sold,  
456 offered for sale, or furnished, or who consumes an alcoholic product including:
- 457 (a) a customer;
- 458 (b) a member;
- 459 (c) a guest;
- 460 (d) an attendee of a banquet or event;
- 461 (e) an individual who receives room service;

462 (f) a resident of a resort; or  
463 (g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity  
464 license.

465 ~~[(87)]~~ (88) (a) "Performing arts facility" means a multi-use performance space that:

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

468 (ii) contains over 2,500 seats;

469 (iii) is owned and operated by a governmental entity; and

470 (iv) is located in a city of the first class.

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

473 ~~[(88)]~~ (89) "Permittee" means a person issued a permit under:

474 (a) Chapter 9, Event Permit Act; or

475 (b) Chapter 10, Special Use Permit Act.

476 ~~[(89)]~~ (90) "Person subject to administrative action" means:

477 (a) a licensee;

478 (b) a permittee;

479 (c) a manufacturer;

480 (d) a supplier;

481 (e) an importer;

482 (f) one of the following holding a certificate of approval:

483 (i) an out-of-state brewer;

484 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

485 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

486 (g) staff of:

487 (i) a person listed in Subsections (89)(a) through (f); or

488 (ii) a package agent.

489 ~~[(90)]~~ (91) "Premises" means a building, enclosure, or room used in connection with  
490 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic  
491 product, unless otherwise defined in this title or rules made by the commission.

492 ~~[(91)]~~ (92) "Prescription" means an order issued by a health care practitioner when:



493 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,  
494 to prescribe a controlled substance, other drug, or device for medicinal purposes;

495 (b) the order is made in the course of that health care practitioner's professional  
496 practice; and

497 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

498 [~~92~~] (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

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

500 [~~93~~] (94) "Principal license" means:

501 (a) a resort license;

502 (b) a hotel license; or

503 (c) an arena license.

504 [~~94~~] (95) (a) "Private event" means a specific social, business, or recreational event:

505 (i) for which an entire room, area, or hall is leased or rented in advance by an identified  
506 group; and

507 (ii) that is limited in attendance to people who are specifically designated and their  
508 guests.

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

511 [~~95~~] (96) "Privately sponsored event" means a specific social, business, or  
512 recreational event:

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

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

515 [~~96~~] (97) (a) "Proof of age" means:

516 (i) an identification card;

517 (ii) an identification that:

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

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

521 (C) includes date of birth; and

522 (D) has a picture affixed;

523 (iii) a valid driver license certificate that:

- 524 (A) includes date of birth;
- 525 (B) has a picture affixed; and
- 526 (C) is issued:
  - 527 (I) under Title 53, Chapter 3, Uniform Driver License Act;
  - 528 (II) in accordance with the laws of the state in which it is issued; or
  - 529 (III) in accordance with federal law by the United States Department of State;
  - 530 (iv) a military identification card that:
    - 531 (A) includes date of birth; and
    - 532 (B) has a picture affixed; or
    - 533 (v) a valid passport.
  - 534 (b) "Proof of age" does not include a driving privilege card issued in accordance with
  - 535 Section [53-3-207](#).

536 ~~[(97)]~~ (98) "Provisions applicable to a sublicense" means:

- 537 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
- 538 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
- 539 (b) for a limited-service restaurant sublicense, the provisions applicable to a
- 540 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
- 541 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
- 542 license under Chapter 6, Part 4, Bar Establishment License;
- 543 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
- 544 banquet license under Chapter 6, Part 6, On-Premise Banquet License;
- 545 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
- 546 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;
- 547 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
- 548 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
- 549 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
- 550 license under Chapter 6, Part 10, Hospitality Amenity License; and
- 551 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
- 552 Part 2, Spa Sublicense.

553 ~~[(98)]~~ (99) (a) "Public building" means a building or permanent structure that is:

- 554 (i) owned or leased by:

- 555 (A) the state; or  
556 (B) a local government entity; and  
557 (ii) used for:  
558 (A) public education;  
559 (B) transacting public business; or  
560 (C) regularly conducting government activities.
- 561 (b) "Public building" does not include a building owned by the state or a local  
562 government entity when the building is used by a person, in whole or in part, for a proprietary  
563 function.
- 564 [~~(99)~~] (100) "Public conveyance" means a conveyance that the public or a portion of  
565 the public has access to and a right to use for transportation, including an airline, railroad, bus,  
566 boat, or other public conveyance.
- 567 [~~(100)~~] (101) "Reception center" means a business that:  
568 (a) operates facilities that are at least 5,000 square feet; and  
569 (b) has as its primary purpose the leasing of the facilities described in Subsection  
570 (100)(a) to a third party for the third party's event.
- 571 [~~(101)~~] (102) "Reception center license" means a license issued in accordance with  
572 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 573 [~~(102)~~] (103) (a) "Record" means information that is:  
574 (i) inscribed on a tangible medium; or  
575 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.  
576 (b) "Record" includes:  
577 (i) a book;  
578 (ii) a book of account;  
579 (iii) a paper;  
580 (iv) a contract;  
581 (v) an agreement;  
582 (vi) a document; or  
583 (vii) a recording in any medium.
- 584 [~~(103)~~] (104) "Residence" means a person's principal place of abode within Utah.  
585 [~~(104)~~] (105) "Resident," in relation to a resort, means the same as that term is defined

586 in Section [32B-8-102](#).

587 ~~[(105)]~~ [\(106\)](#) "Resort" means the same as that term is defined in Section [32B-8-102](#).

588 ~~[(106)]~~ [\(107\)](#) "Resort facility" is as defined by the commission by rule.

589 ~~[(107)]~~ [\(108\)](#) "Resort license" means a license issued in accordance with Chapter 5,  
590 Retail License Act, and Chapter 8, Resort License Act.

591 ~~[(108)]~~ [\(109\)](#) "Responsible alcohol service plan" means a written set of policies and  
592 procedures that outlines measures to prevent employees from:

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

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

596 (c) serving alcoholic beverages to minors.

597 ~~[(109)]~~ [\(110\)](#) "Restaurant" means a business location:

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

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

600 (c) that is engaged primarily in serving meals.

601 ~~[(110)]~~ [\(111\)](#) "Restaurant license" means one of the following licenses issued under  
602 this title:

603 (a) a full-service restaurant license;

604 (b) a limited-service restaurant license; or

605 (c) a beer-only restaurant license.

606 ~~[(111)]~~ [\(112\)](#) "Retail license" means one of the following licenses issued under this  
607 title:

608 (a) a full-service restaurant license;

609 (b) a master full-service restaurant license;

610 (c) a limited-service restaurant license;

611 (d) a master limited-service restaurant license;

612 (e) a bar establishment license;

613 (f) an airport lounge license;

614 (g) an on-premise banquet license;

615 (h) an on-premise beer license;

616 (i) a reception center license;

617 (j) a beer-only restaurant license;

618 (k) a hospitality amenity license;

619 (l) a resort license;

620 (m) a hotel license; or

621 (n) an arena license.

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

624 (a) hotel; or

625 (b) resort facility.

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

628 (i) elementary school;

629 (ii) secondary school; or

630 (iii) kindergarten.

631 (b) "School" does not include:

632 (i) a nursery school;

633 (ii) a day care center;

634 (iii) a trade and technical school;

635 (iv) a preschool; or

636 (v) a home school.

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

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

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

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

- 648 (a) for the entertainment of one or more patrons;
- 649 (b) on the premises of:
  - 650 (i) a bar licensee; or
  - 651 (ii) a tavern;
- 652 (c) on behalf of or at the request of the licensee described in Subsection (117)(b);
- 653 (d) on a contractual or voluntary basis; and
- 654 (e) whether or not the person is designated as:
  - 655 (i) an employee;
  - 656 (ii) an independent contractor;
  - 657 (iii) an agent of the licensee; or
  - 658 (iv) a different type of classification.

659 ~~[(118)]~~ (119) "Shared seating area" means the licensed premises of two or more  
 660 restaurant licensees that the restaurant licensees share as an area for alcoholic beverage  
 661 consumption in accordance with Subsection 32B-5-207(3).

662 ~~[(119)]~~ (120) "Single event permit" means a permit issued in accordance with Chapter  
 663 9, Part 3, Single Event Permit.

664 ~~[(120)]~~ (121) "Small brewer" means a brewer who manufactures less than 60,000  
 665 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates  
 666 by:

- 667 (a) if the brewer is part of a controlled group of manufacturers, including the combined  
 668 volume totals of production for all breweries that constitute the controlled group of  
 669 manufacturers; and
- 670 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
  - 671 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission  
 672 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 673 Rulemaking Act; and
  - 674 (ii) does not sell for consumption as, or in, a beverage.

675 ~~[(121)]~~ (122) "Small or unincorporated locality" means:

- 676 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- 677 (b) a town, as classified under Section 10-2-301; or
- 678 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified

679 under Section [17-50-501](#).

680 ~~[(122)]~~ [\(123\)](#) "Spa sublicense" means a sublicense:

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

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

683 ~~[(123)]~~ [\(124\)](#) "Special use permit" means a permit issued in accordance with Chapter  
684 10, Special Use Permit Act.

685 ~~[(124)]~~ [\(125\)](#) (a) "Spirituous liquor" means liquor that is distilled.

686 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by  
687 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

688 ~~[(125)]~~ [\(126\)](#) "Sports center" is as defined by the commission by rule.

689 ~~[(126)]~~ [\(127\)](#) (a) "Staff" means an individual who engages in activity governed by this  
690 title:

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

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

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

697 (b) "Staff" includes:

698 (i) an officer;

699 (ii) a director;

700 (iii) an employee;

701 (iv) personnel management;

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

703 (vi) an operator; or

704 (vii) a representative.

705 ~~[(127)]~~ [\(128\)](#) "State of nudity" means:

706 (a) the appearance of:

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

708 (ii) a human genital;

709 (iii) a human pubic area; or

- 710 (iv) a human anus; or
- 711 (b) a state of dress that fails to opaquely cover:
  - 712 (i) the nipple or areola of a female human breast;
  - 713 (ii) a human genital;
  - 714 (iii) a human pubic area; or
  - 715 (iv) a human anus.
- 716 ~~[(128)]~~ (129) "State of seminudity" means a state of dress in which opaque clothing
- 717 covers no more than:
  - 718 (a) the nipple and areola of the female human breast in a shape and color other than the
  - 719 natural shape and color of the nipple and areola; and
  - 720 (b) the human genitals, pubic area, and anus:
    - 721 (i) with no less than the following at its widest point:
      - 722 (A) four inches coverage width in the front of the human body; and
      - 723 (B) five inches coverage width in the back of the human body; and
    - 724 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 725 ~~[(129)]~~ (130) (a) "State store" means a facility for the sale of packaged liquor:
  - 726 (i) located on premises owned or leased by the state; and
  - 727 (ii) operated by a state employee.
- 728 (b) "State store" does not include:
  - 729 (i) a package agency;
  - 730 (ii) a licensee; or
  - 731 (iii) a permittee.
- 732 ~~[(130)]~~ (131) (a) "Storage area" means an area on licensed premises where the licensee
- 733 stores an alcoholic product.
- 734 (b) "Store" means to place or maintain in a location an alcoholic product.
- 735 ~~[(131)]~~ (132) "Sublicense" means:
  - 736 (a) any of the following licenses issued as a subordinate license to, and contingent on
  - 737 the issuance of, a principal license:
    - 738 (i) a full-service restaurant license;
    - 739 (ii) a limited-service restaurant license;
    - 740 (iii) a bar establishment license;



- 741 (iv) an on-premise banquet license;  
742 (v) an on-premise beer retailer license;  
743 (vi) a beer-only restaurant license; or  
744 (vii) a hospitality amenity license; or  
745 (b) a spa sublicense.

746 [~~(132)~~] (133) "Supplier" means a person who sells an alcoholic product to the  
747 department.

748 [~~(133)~~] (134) "Tavern" means an on-premise beer retailer who is:

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

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

753 [~~(134)~~] (135) "Temporary beer event permit" means a permit issued in accordance with  
754 Chapter 9, Part 4, Temporary Beer Event Permit.

755 [~~(135)~~] (136) "Temporary domicile" means the principal place of abode within Utah of  
756 a person who does not have a present intention to continue residency within Utah permanently  
757 or indefinitely.

758 [~~(136)~~] (137) "Translucent" means a substance that allows light to pass through, but  
759 does not allow an object or person to be seen through the substance.

760 [~~(137)~~] (138) "Unsaleable liquor merchandise" means a container that:

- 761 (a) is unsaleable because the container is:  
762 (i) unlabeled;  
763 (ii) leaky;  
764 (iii) damaged;  
765 (iv) difficult to open; or  
766 (v) partly filled;  
767 (b) (i) has faded labels or defective caps or corks;  
768 (ii) has contents that are:  
769 (A) cloudy;  
770 (B) spoiled; or  
771 (C) chemically determined to be impure; or

772 (iii) contains:

773 (A) sediment; or

774 (B) a foreign substance; or

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

776 ~~[(138)]~~ (139) (a) "Wine" means an alcoholic product obtained by the fermentation of

777 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or

778 not another ingredient is added.

779 (b) "Wine" includes:

780 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.

781 4.10; and

782 (ii) hard cider.

783 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided

784 in this title.

785 ~~[(139)]~~ (140) "Winery manufacturing license" means a license issued in accordance

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

787 Section 2. Section **32B-1-701** is amended to read:

788 **32B-1-701. Definitions.**

789 As used in this part:

790 (1) "Off-premise retail manager" means an individual who manages operations at a

791 premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

792 (2) (a) "Off-premise retail staff" means an individual who:

793 (i) sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer

794 Act~~[-]~~; or

795 (ii) makes an off-premise beer delivery.

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

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

798 (a) manages operations at a premises that is licensed under Chapter 5, Retail License

799 Act; or

800 (b) supervises the furnishing of an alcoholic product at a premises that is licensed

801 under Chapter 5, Retail License Act.

802 (4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises

803 licensed under Chapter 5, Retail License Act.

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

805 Section 3. Section **32B-7-202** is amended to read:

806 **32B-7-202. General operational requirements for off-premise beer retailer.**

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

809 (b) Failure to comply with this section may result in:

810 (i) a suspension or revocation of a local license; and[;]

811 (ii) [~~on or after July 1, 2018;~~] disciplinary action in accordance with Chapter 3,  
812 Disciplinary Actions and Enforcement Act.

813 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the  
814 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases  
815 from:

816 (A) a beer wholesaler licensee; or

817 (B) a small brewer that manufactures the beer.

818 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

819 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a  
820 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer  
821 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
822 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by  
823 the department to sell to the off-premise beer retailer as provided in Section [32B-13-301](#).

824 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

825 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a  
826 container larger than two liters.

827 (4) (a) Staff of an off-premise beer retailer, while on duty, may not:

828 (i) consume an alcoholic product; or

829 (ii) be intoxicated.

830 (b) A minor may not sell beer on the licensed premises of an off-premise beer retailer  
831 unless:

832 (i) the sale is done under the supervision of a person 21 years old or older who is on the  
833 licensed premises; and

834 (ii) the minor is at least 16 years old.

835 (5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic  
836 product to:

837 (a) a minor;

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

839 (c) a known interdicted person; or

840 (d) a known habitual drunkard.

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

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

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

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

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

852 (A) is prominent;

853 (B) is easily readable by a consumer;

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

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

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

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

861 (i) a malt cooler; or

862 (ii) a beverage that may provide energy.

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

864 ~~[(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection~~

865 ~~(6)(a)(i) apply on and after May 9, 2017.]~~

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

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

871 (i) on the front of the staff's clothing;

872 (ii) visible above the waist;

873 (iii) bearing the staff's:

874 (A) first or last name;

875 (B) initials; or

876 (C) unique identification in letters or numbers; and

877 (iv) with the number or letters on the unique identification badge being sufficiently  
878 large to be clearly visible and identifiable while engaging in or directly supervising the retail  
879 sale of beer.

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

882 (i) full name;

883 (ii) address; and

884 (iii) (A) driver license number; or

885 (B) similar identification number.

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

888 (i) a peace officer;

889 (ii) a representative of the local authority that issues the off-premise beer retailer  
890 license; or

891 (iii) for an off-premise beer retailer state license, a representative of the commission or  
892 department.

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

895 (8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a

896 drive through window.

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

899 (9) (a) Subject to Subsection (9)(b), an off-premise beer retailer may allow the staff of  
900 the off-premise beer retailer to make an off-premise beer delivery if:

901 (i) the off-premise beer retailer does not process payment for the order until after the  
902 time at which the delivery of the beer is complete;

903 (ii) the order is for the lesser of:

904 (A) four cases; or

905 (B) 1,152 ounces of beer;

906 (iii) the staff:

907 (A) is at least 21 years old;

908 (B) verifies that the name on the proof of age of the individual to whom the staff  
909 delivers the beer matches the name of the individual who ordered the beer;

910 (C) only delivers the beer to a physical address; and

911 (D) only delivers the beer during the period that begins at 10:00 a.m. and ends at 11:50  
912 p.m.;

913 (iv) the staff electronically records for the delivery:

914 (A) verification of proof of age for the individual to whom the staff delivers the beer  
915 that includes no more than the individual's name, age, birth date, and gender, and the status of,  
916 expiration date of, and number assigned by the issuing authority to, the individual's proof of  
917 age;

918 (B) the date on which the staff delivers the beer;

919 (C) the time at which the staff delivers the beer; and

920 (D) the physical address to which the staff delivers the beer; and

921 (v) the off-premise beer retailer keeps for one year after the day on which the delivery  
922 occurs:

923 (A) the electronic record described in Subsection (9)(a)(iv); and

924 (B) the receipt for the order.

925 (b) (i) Before the staff of an off-premise beer retailer makes an off-premise beer  
926 delivery, the off-premise beer retailer shall apply for and obtain permission from the

927 department to make off-premise beer deliveries.

928 (ii) The commission shall determine by rule made in accordance with Title 63G,  
 929 Chapter 3, Utah Administrative Rulemaking Act, the manner in which an off-premise beer  
 930 retailer applies for permission to make off-premise beer deliveries under Subsection (9)(b)(i).

931 (c) An off-premise beer retailer shall make the information described in Subsection  
 932 (9)(a)(v) available upon request to:

933 (i) the department;

934 (ii) the local authority; or

935 (iii) the Department of Public Safety.

936 [~~9~~] (10) An off-premise beer retailer may not on the licensed premises:

937 (a) engage in or permit any form of:

938 (i) gambling, as defined in Section 76-10-1101; or

939 (ii) fringe gambling, as defined in Section 76-10-1101;

940 (b) have any fringe gaming device, video gaming device, or gambling device or record  
 941 as defined in Section 76-10-1101; or

942 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
 943 the risking of something of value for a return or for an outcome when the return or outcome is  
 944 based upon an element of chance, excluding the playing of an amusement device that confers  
 945 only an immediate and unrecorded right of replay not exchangeable for value.

946 [~~10~~] (11) An off-premise beer retailer may not knowingly allow a person on the  
 947 licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or  
 948 Chapter 37a, Utah Drug Paraphernalia Act:

949 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
 950 58-37-2; or

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

953 Section 4. Section 62A-15-401 is amended to read:

954 **62A-15-401. Alcohol training and education seminar.**

955 (1) As used in this [part] section:

956 (a) "Instructor" means a person that directly provides the instruction during an alcohol  
 957 training and education seminar for a seminar provider.

958 (b) "Licensee" means a person who is:

959 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

960 and

961 (B) engaged in the retail sale of an alcoholic product for consumption on the premises

962 of the licensee; or

963 (ii) a business that is:

964 (A) a new or renewing licensee licensed by a city, town, or county; and

965 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

966 (c) "Off-premise beer delivery" means the same as that term is defined in Section

967 [32B-1-102](#).

968 [~~(c)~~] (d) "Off-premise beer retailer" [~~is as~~] means the same as that term is defined in

969 Section [32B-1-102](#).

970 [~~(d)~~] (e) "Seminar provider" means a person other than the division who provides an

971 alcohol training and education seminar meeting the requirements of this section.

972 (2) (a) This section applies to:

973 (i) a retail manager as defined in Section [32B-1-701](#);

974 (ii) retail staff as defined in Section [32B-1-701](#); and

975 (iii) an individual who, as defined by division rule made in accordance with Title 63G,

976 Chapter 3, Utah Administrative Rulemaking Act:

977 (A) directly supervises the sale of beer to a customer for consumption off the premises

978 of an off-premise beer retailer; [~~or~~]

979 (B) sells beer to a customer for consumption off the premises of an off-premise beer

980 retailer[~~;~~]; or

981 (C) makes an off-premise beer delivery to an individual.

982 (b) If the individual does not have a valid record that the individual has completed an

983 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

984 (i) (A) complete an alcohol training and education seminar within 30 days [~~of the~~

985 ~~following~~] after the day on which one of the following occurs if the individual is described in

986 Subsection (2)(a)(i) or (ii):

987 (I) if the individual is an employee, the day on which the individual begins

988 employment;



989 (II) if the individual is an independent contractor, the day on which the individual is  
990 first hired; or

991 (III) if the individual holds an ownership interest in the licensee, the day [~~that~~] on  
992 which the individual first engages in an activity that would result in that individual being  
993 required to complete an alcohol training and education seminar; or

994 (B) complete an alcohol training and education seminar within the time periods  
995 specified in Subsection 32B-1-703(1) if the individual is described in Subsection [~~(2)(a)(iii)(A)~~  
996 ~~or (B)~~] (2)(a)(iii); and

997 (ii) pay a fee:

998 (A) to the seminar provider; and

999 (B) that is equal to or greater than the amount established under Subsection (4)(h).

1000 (c) An individual shall have a valid record that the individual completed an alcohol  
1001 training and education seminar within the time period provided in this Subsection (2) to engage  
1002 in an activity described in Subsection (2)(a).

1003 (d) A record that an individual has completed an alcohol training and education  
1004 seminar is valid for:

1005 (i) three years [~~from~~] after the day on which the record is issued for an individual  
1006 described in Subsection (2)(a)(i) or (ii); and

1007 (ii) five years [~~from~~] after the day on which the record is issued for an individual  
1008 described in Subsection [~~(2)(a)(iii)(A) or (B)~~] (2)(a)(iii).

1009 (e) [~~On and after July 1, 2011, to~~] To be considered as having completed an alcohol  
1010 training and education seminar, an individual shall:

1011 (i) attend the alcohol training and education seminar and take any test required to  
1012 demonstrate completion of the alcohol training and education seminar in the physical presence  
1013 of an instructor of the seminar provider; or

1014 (ii) complete the alcohol training and education seminar and take any test required to  
1015 demonstrate completion of the alcohol training and education seminar through an online course  
1016 or testing program that meets the requirements described in Subsection (2)(f).

1017 (f) (i) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah  
1018 Administrative Rulemaking Act, establish one or more requirements for an online course or  
1019 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of

1020 the online course or testing program.

1021       (ii) In developing the requirements by rule the division shall consider whether to  
1022 require:

1023       ~~(i)~~ (A) authentication that the an individual accurately identifies the individual as  
1024 taking the online course or test;

1025       ~~(ii)~~ (B) measures to ensure that an individual taking the online course or test is  
1026 focused on training material throughout the entire training period;

1027       ~~(iii)~~ (C) measures to track the actual time an individual taking the online course or  
1028 test is actively engaged online;

1029       ~~(iv)~~ (D) a seminar provider to provide technical support, such as requiring a  
1030 telephone number, email, or other method of communication that allows an individual taking  
1031 the online course or test to receive assistance if the individual is unable to participate online  
1032 because of technical difficulties;

1033       ~~(v)~~ (E) a test to meet quality standards, including randomization of test questions and  
1034 maximum time limits to take a test;

1035       ~~(vi)~~ (F) a seminar provider to have a system to reduce fraud as to who completes an  
1036 online course or test, such as requiring a distinct online certificate with information printed on  
1037 the certificate that identifies the person taking the online course or test, or requiring measures  
1038 to inhibit duplication of a certificate;

1039       ~~(vii)~~ (G) measures for the division to audit online courses or tests;

1040       ~~(viii)~~ (H) measures to allow an individual taking an online course or test to provide  
1041 an evaluation of the online course or test;

1042       ~~(ix)~~ (I) a seminar provider to track the Internet protocol address or similar electronic  
1043 location of an individual who takes an online course or test;

1044       ~~(x)~~ (J) an individual who takes an online course or test to use an e-signature; or

1045       ~~(xi)~~ (K) a seminar provider to invalidate a certificate if the seminar provider learns  
1046 that the certificate does not accurately reflect the individual who took the online course or test.

1047       (3) (a) A licensee may not permit an individual who is not in compliance with  
1048 Subsection (2) to:

1049           (i) serve or supervise the serving of an alcoholic product to a customer for  
1050 consumption on the premises of the licensee;

1051 (ii) engage in any activity that would constitute managing operations at the premises of  
1052 a licensee that engages in the retail sale of an alcoholic product for consumption on the  
1053 premises of the licensee;

1054 (iii) directly supervise the sale of beer to a customer for consumption off the premises  
1055 of an off-premise beer retailer; [~~or~~]

1056 (iv) sell beer to a customer for consumption off the premises of an off-premise beer  
1057 retailer[-]; or

1058 (v) make an off-premise beer delivery.

1059 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-1-702](#).

1060 (4) The division shall:

1061 (a) (i) provide alcohol training and education seminars; or

1062 (ii) certify one or more seminar providers;

1063 (b) establish the curriculum for an alcohol training and education seminar that includes  
1064 the following subjects:

1065 (i) (A) alcohol as a drug; and

1066 (B) alcohol's effect on the body and behavior;

1067 (ii) recognizing the problem drinker or signs of intoxication;

1068 (iii) an overview of state alcohol laws related to responsible beverage sale or service,  
1069 as determined in consultation with the Department of Alcoholic Beverage Services;

1070 (iv) dealing with the problem customer, including ways to terminate sale or service;

1071 and

1072 (v) for those supervising or engaging in the retail sale of an alcoholic product for  
1073 consumption on the premises of a licensee, alternative means of transportation to get the  
1074 customer safely home;

1075 (c) recertify each seminar provider every three years;

1076 (d) monitor compliance with the curriculum described in Subsection (4)(b);

1077 (e) maintain for at least five years a record of every person who has completed an  
1078 alcohol training and education seminar;

1079 (f) provide the information described in Subsection (4)(e) on request to:

1080 (i) the Department of Alcoholic Beverage Services;

1081 (ii) law enforcement; or

1082 (iii) a person licensed by the state or a local government to sell an alcoholic product;

1083 (g) provide the Department of Alcoholic Beverage Services on request a list of any

1084 seminar provider certified by the division; and

1085 (h) establish a fee amount for each person attending an alcohol training and education

1086 seminar that is sufficient to offset the division's cost of administering this section.

1087 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah

1088 Administrative Rulemaking Act:

1089 (a) define what constitutes under this section an individual who:

1090 (i) manages operations at the premises of a licensee engaged in the retail sale of an  
1091 alcoholic product for consumption on the premises of the licensee;

1092 (ii) supervises the serving of an alcoholic product to a customer for consumption on the  
1093 premises of a licensee;

1094 (iii) serves an alcoholic product to a customer for consumption on the premises of a  
1095 licensee;

1096 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
1097 of an off-premise beer retailer; [~~or~~]

1098 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
1099 retailer; or

1100 (vi) makes an off-premise beer delivery;

1101 (b) establish criteria for certifying and recertifying a seminar provider; and

1102 (c) establish guidelines for the manner in which an instructor provides an alcohol  
1103 education and training seminar.

1104 (6) A seminar provider shall:

1105 (a) obtain recertification by the division every three years;

1106 (b) ensure that an instructor used by the seminar provider:

1107 (i) follows the curriculum established under this section; and

1108 (ii) conducts an alcohol training and education seminar in accordance with the  
1109 guidelines established by rule;

1110 (c) ensure that any information provided by the seminar provider or instructor of a  
1111 seminar provider is consistent with:

1112 (i) the curriculum established under this section; and

- 1113 (ii) this section;
- 1114 (d) provide the division with the names of all persons who complete an alcohol training  
1115 and education seminar provided by the seminar provider;
- 1116 (e) (i) collect a fee for each person attending an alcohol training and education seminar  
1117 in accordance with Subsection (2); and
- 1118 (ii) forward to the division the portion of the fee that is equal to the amount described  
1119 in Subsection (4)(h); and
- 1120 (f) issue a record to an individual that completes an alcohol training and education  
1121 seminar provided by the seminar provider.
- 1122 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,  
1123 Administrative Procedures Act, the division finds that a seminar provider violates this section  
1124 or that an instructor of the seminar provider violates this section, the division may:
- 1125 (i) suspend the certification of the seminar provider for a period not to exceed 90 days  
1126 after the day on which the suspension begins;
- 1127 (ii) revoke the certification of the seminar provider;
- 1128 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 1129 (iv) prohibit the seminar provider from using an instructor until such time that the  
1130 seminar provider establishes to the satisfaction of the division that the instructor is in  
1131 compliance with Subsection (6)(b).
- 1132 (b) The division may certify a seminar provider whose certification is revoked:
- 1133 (i) no sooner than 90 days [~~from the date the~~] after the day on which the certification is  
1134 revoked; and
- 1135 (ii) if the seminar provider establishes to the satisfaction of the division that the  
1136 seminar provider will comply with this section.