

SB0173S02 compared with SB0173

~~deleted text~~ shows text that was in SB0173 but was deleted in SB0173S02.

inserted text shows text that was not in SB0173 but was inserted into SB0173S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Jerry W. Stevenson proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: ~~_____~~ Jefferson S. Burton

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies the proximity within which a hotel licensee may be to a community location;
- ▶ clarifies hotel and resort licensee room service requirements;
- ▶ modifies provisions related to flavored beer, heavy beer, and other malt beverages;
- ▶ establishes a process for the Department of Alcoholic Beverage Services (department) to review and approve flavoring in beer;
- ▶ addresses minor ownership in an entity that applies for an alcohol license, package

SB0173S02 compared with SB0173

agency, or permit;

- ▶ prohibits the department from purchasing or stocking spirituous liquor in a container under 200 milliliters except for certain purposes;
- ▶ modifies alcohol training and education requirements for certain staff of an alcohol licensee;
- ▶ requires the Alcoholic Beverage Services Commission (commission) to provide information regarding an off-premise beer retailer licensee's sale of an alcoholic product to a minor to the Department of Public Safety and requires the Department of Public Safety to manage the information;
- ▶ modifies alcohol license renewal fee requirements;
- ▶ removes provisions requiring the clerk of the court to notify the ~~{Department of Alcoholic Beverage Services}~~ department of violations of the Alcoholic Beverage Control Act or alcohol-related local ordinances;
- ▶ prohibits storage of an alcoholic beverage for sale if a person is not authorized to sell the alcoholic beverage;
- ▶ modifies license forfeiture requirements for retail licensees that cease operations;
- ▶ allows certain restaurant venues to obtain an on-premise banquet license for the same premises as a restaurant license;
- ▶ allows a hotel to obtain an off-premise beer retailer state license for the same premises as hotel sublicensee;
- ▶ limits the number of on-premise banquet licenses the commission may issue to a restaurant venue;
- ▶ allows a restaurant patron who is escorted by a restaurant employee to carry an unfinished drink from the dispensing area to the dining area;
- ▶ modifies serving size requirements for hard cider;
- ▶ modifies requirements for master full-service restaurant licensees;
- ▶ exempts resort sublicenses from the commission's calculation regarding the total number of retail licenses issued;
- ▶ exempts ~~{fraternal and equity}~~ a certain number of bar establishment licenses from the population quota applicable to bar establishment licenses;
- ▶ modifies ~~{applicant}~~ requirements for ~~{an}~~ certain equity ~~{bar establishment}~~

SB0173S02 compared with SB0173

~~license}~~ licensees to maintain a substantial recreational facility;

- ▶ provides that an equity licensee may have more than one dispensing structure on the equity licensee's premises;
- ▶ increases the number of airport lounge licenses the commission may issue for an international airport;
- ▶ allows the commission to issue ~~an}~~ a certain number of airport lounge ~~license}~~ licenses to a domestic airport;
- ▶ requires a person who transports liquor to a domestic airport to obtain a liquor transport license;
- ~~{~~ → ~~extends the hours during which an airport lounge licensee may sell, offer for sale, or furnish alcohol;~~
- ~~}~~ ▶ modifies department notice requirements for, and the process for issuance of an event permit;
- ~~{~~ → ~~clarifies the types of products an industrial or manufacturing use permittee may produce;~~
- ~~}~~ ▶ allows the commission to deem certain licenses forfeited for the licensee's failure to meet change in ownership notice requirements;
- ▶ modifies the time period within which a local industry representative licensee and liquor warehousing licensee is required to notify the department regarding change of ownership;
- ▶ modifies provisions related to management agreements concerning a business that is utilizing an alcohol license;
- ▶ clarifies provisions related to alcohol inventory transfer agreements; 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

SB0173S02 compared with SB0173

32B-1-202.1, as last amended by Laws of Utah 2022, Chapter 447

32B-1-304, as last amended by Laws of Utah 2021, Chapter 291

32B-1-603, as last amended by Laws of Utah 2022, Chapter 447

32B-1-703, as renumbered and amended by Laws of Utah 2019, Chapter 403

32B-1-705, as renumbered and amended by Laws of Utah 2019, Chapter 403

32B-2-202, as last amended by Laws of Utah 2022, Chapter 447

32B-2-303, as last amended by Laws of Utah 2011, Chapter 307

32B-4-202, as last amended by Laws of Utah 2016, Chapter 176

32B-4-418, as enacted by Laws of Utah 2010, Chapter 276

32B-5-304, as last amended by Laws of Utah 2022, Chapter 447

32B-5-309, as last amended by Laws of Utah 2022, Chapter 447

32B-6-205.2, as last amended by Laws of Utah 2022, Chapter 447

32B-6-206, as last amended by Laws of Utah 2019, Chapter 403

32B-6-305.2, as last amended by Laws of Utah 2022, Chapter 447

32B-6-403, as last amended by Laws of Utah 2018, Chapter 249

32B-6-404, as last amended by Laws of Utah 2018, Chapter 249

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

32B-6-503, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 3

~~{ 32B-6-505, as enacted by Laws of Utah 2010, Chapter 276~~

{ 32B-6-603, as last amended by Laws of Utah 2020, Chapter 219

32B-6-605, as last amended by Laws of Utah 2022, Chapter 447

32B-6-905.1, as last amended by Laws of Utah 2022, Chapter 447

32B-6-1005, as last amended by Laws of Utah 2022, Chapter 447

32B-7-409, as enacted by Laws of Utah 2020, Chapter 219

32B-8-401, as last amended by Laws of Utah 2020, Chapter 219

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

32B-8b-301, as last amended by Laws of Utah 2022, Chapter 447

32B-8d-103, as last amended by Laws of Utah 2022, Chapter 447

32B-8d-205, as last amended by Laws of Utah 2022, Chapter 447

32B-9-202, as last amended by Laws of Utah 2016, Chapter 35

~~{ 32B-10-404, as last amended by Laws of Utah 2011, Chapters 307, 334~~

SB0173S02 compared with SB0173

- † 32B-11-209, as enacted by Laws of Utah 2010, Chapter 276
- 32B-11-210, as enacted by Laws of Utah 2016, Chapter 266
- 32B-11-609, as enacted by Laws of Utah 2010, Chapter 276
- 32B-12-302, as enacted by Laws of Utah 2010, Chapter 276
- 32B-17-102, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 3
- 32B-18-204, as renumbered and amended by Laws of Utah 2022, Chapter 447
- 32B-18-205, as enacted by Laws of Utah 2022, Chapter 447
- 62A-15-401, as last amended by Laws of Utah 2022, Chapter 447

ENACTS:

32B-1-603.5, Utah Code Annotated 1953

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

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

32B-1-102. Definitions.

As used in this title:

- (1) "Airport lounge" means a business location:
 - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - (b) that is located at an international airport or domestic airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

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

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

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

- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

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

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

SB0173S02 compared with SB0173

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

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

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

- (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

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

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

(b) that operates as a venue; and

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

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

(8) "Banquet" means an event:

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

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

- (i) a hotel;
- (ii) a resort facility;
- (iii) a sports center;
- (iv) a convention center;

SB0173S02 compared with SB0173

(v) a performing arts facility; [~~or~~]

(vi) an arena; or

(vii) a restaurant venue;

(c) for which there is a contract:

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

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

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

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

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

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

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

(i) contains:

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

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

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

(A) malt; or

(B) a malt substitute; and

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

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

SB0173S02 compared with SB0173

- (F) a malt;
- (G) a malted beverage; or
- (H) seltzer.
- (b) "Beer" may contain:
 - (i) hops extract; ~~[or]~~
 - (ii) caffeine, if the caffeine is a natural constituent of an added ingredient~~;~~

~~;~~ [or];

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade

Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or

(B) wine; or

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

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

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

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

(b) is licensed as:

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

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

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

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

SB0173S02 compared with SB0173

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

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

- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

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

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

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

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

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

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

(20) "Church" means a building:

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

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

SB0173S02 compared with SB0173

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

(23) "Community location" means:

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

(24) "Community location governing authority" means:

- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community

location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

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

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

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

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

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

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

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

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

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

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

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

(32) "Department sample" means liquor that is placed in the possession of the

SB0173S02 compared with SB0173

department for testing, analysis, and sampling.

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

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

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

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

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

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

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

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

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

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

SB0173S02 compared with SB0173

(40) "Domestic airport" means an airport ~~at which a domestic flight may enter and depart;~~ that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

~~(40)~~ (41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

~~(41)~~ (42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

~~(42)~~ (43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

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

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

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

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

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

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

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

SB0173S02 compared with SB0173

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

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

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0173S02 compared with SB0173

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

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

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

~~and~~ or

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; and

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

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (51)(a)(i)(B), spirituous liquor; or

(B) wine; or

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

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

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

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

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

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

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

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

SB0173S02 compared with SB0173

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

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

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

(i) meets the requirements under Subsection ~~[(52)(a)]~~ ~~[(53)(a)]~~; and

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

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

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

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

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

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

(a) law; or

(b) court order.

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

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

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

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

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

(i) an alcoholic product;

(ii) a controlled substance;

SB0173S02 compared with SB0173

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

(iv) a combination of Subsections ~~[(59)(a)(i)]~~ (60)(a)(i) through (iii); and

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

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

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

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

(a) a retail license;

(b) a sublicense;

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

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

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

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

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

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

~~[(63)]~~ (64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~[(64)]~~ (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

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

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

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

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

(A) is:

(I) alcohol;

SB0173S02 compared with SB0173

- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
 - (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
 - (IV) other drink or drinkable liquid; and
- (B) (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

~~[(66)]~~ (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

~~[(67)]~~ (68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

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

- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- (b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

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

- (a) for premises that are located in an unincorporated area of a county, the governing body of a county;
- (b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or
- (c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

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

~~[(71)]~~ (72) "Malt substitute" means:

- (a) rice;
- (b) grain;

SB0173S02 compared with SB0173

- (c) bran;
- (d) glucose;
- (e) sugar; or
- (f) molasses.

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

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

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

- (i) (A) under the control of the United States Department of Defense; or
 - (B) of the National Guard;
 - (ii) that is located within the state; and
 - (iii) including a leased facility.
- (b) "Military installation" does not include a facility used primarily for:
- (i) civil works;
 - (ii) a rivers and harbors project; or
 - (iii) a flood control project.

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

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

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

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

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

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

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

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

SB0173S02 compared with SB0173

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

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

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

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

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

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

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

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

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

(A) as a tavern; or

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

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

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

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

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

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

(a) a customer;

(b) a member;

(c) a guest;

SB0173S02 compared with SB0173

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

license.

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

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

(ii) contains over 2,500 seats;

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

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

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

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

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

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

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

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

(i) an out-of-state brewer;

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

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

(g) staff of:

(i) a person listed in Subsections ~~[(89)(a)]~~ (90)(a) through (f); or

(ii) a package agent.

~~[(90)]~~ (91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic

SB0173S02 compared with SB0173

product, unless otherwise defined in this title or rules made by the commission.

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

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

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

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

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

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

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

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

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

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

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

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

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

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

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

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

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

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

(C) includes date of birth; and

SB0173S02 compared with SB0173

- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
 - (A) includes date of birth;
 - (B) has a picture affixed; and
 - (C) is issued:
 - (I) under Title 53, Chapter 3, Uniform Driver License Act;
 - (II) in accordance with the laws of the state in which it is issued; or
 - (III) in accordance with federal law by the United States Department of State;
 - (iv) a military identification card that:
 - (A) includes date of birth; and
 - (B) has a picture affixed; or
 - (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

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

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

SB0173S02 compared with SB0173

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

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

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

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

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

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

(b) has as its primary purpose the leasing of the facilities described in Subsection

~~[(100)(a)]~~ (101)(a) to a third party for the third party's event.

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

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

(i) inscribed on a tangible medium; or

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

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

SB0173S02 compared with SB0173

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

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

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

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

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

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

(a) over-serving alcoholic beverages to customers;

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

(c) serving alcoholic beverages to minors.

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

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

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

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

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

~~(b)~~ (c) (i) has at least 1,000 square feet ~~of space~~ that:

(A) may be reserved for a banquet; and

(B) accommodates at least ~~50~~ 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate

SB0173S02 compared with SB0173

amount of space, as determined by the commission, that may be reserved for a banquet.

~~[(111)]~~ (113) "Retail license" means one of the following licenses issued under this title:

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

~~[(112)]~~ (114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

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

~~[(113)]~~ (115) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

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

SB0173S02 compared with SB0173

(v) a home school.

~~[(114)]~~ (116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

~~[(115)]~~ (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(116)]~~ (118) "Serve" means to place an alcoholic product before an individual.

~~[(117)]~~ (119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(117)(b)]~~

(119)(b);

(d) on a contractual or voluntary basis; and

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

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

~~[(118)]~~ (120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

~~[(119)]~~ (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(120)]~~ (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates

SB0173S02 compared with SB0173

by:

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

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

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

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

~~[(121)]~~ (123) "Small or unincorporated locality" means:

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

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

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

~~[(122)]~~ (124) "Spa sublicense" means a sublicense:

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

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

~~[(123)]~~ (125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(124)]~~ (126) (a) "Spirituous liquor" means liquor that is distilled.

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

~~[(125)]~~ (127) "Sports center" is as defined by the commission by rule.

~~[(126)]~~ (128) (a) "Staff" means an individual who engages in activity governed by this title:

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

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

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

SB0173S02 compared with SB0173

(b) "Staff" includes:

- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.

~~[(127)]~~ (129) "State of nudity" means:

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

~~[(128)]~~ (130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

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

~~[(129)]~~ (131) (a) "State store" means a facility for the sale of packaged liquor:

- (i) located on premises owned or leased by the state; and
- (ii) operated by a state employee.

SB0173S02 compared with SB0173

(b) "State store" does not include:

- (i) a package agency;
- (ii) a licensee; or
- (iii) a permittee.

~~(130)~~ (132) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

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

~~(131)~~ (133) "Sublicense" means:

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

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

~~(132)~~ (134) "Supplier" means a person who sells an alcoholic product to the department.

~~(133)~~ (135) "Tavern" means an on-premise beer retailer who is:

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

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

~~(134)~~ (136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~(135)~~ (137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~(136)~~ (138) "Translucent" means a substance that allows light to pass through, but

SB0173S02 compared with SB0173

does not allow an object or person to be seen through the substance.

~~[(137)]~~ (139) "Unsaleable liquor merchandise" means a container that:

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

~~[(138)]~~ (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

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

~~[(139)]~~ (141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

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

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

- (1) As used in this section, "hotel" means the same as that term is defined in Section

SB0173S02 compared with SB0173

32B-8b-102.

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

(a) the proposed hotel is:

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

(ii) within ~~[600]~~ 650 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;

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

(iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;

(b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:

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

(ii) is not accessible at street level; and

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

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

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

(4) (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which the commission issues the license, each proposed sublicense of the arena license:

(i) operates as an outlet or restaurant; and

(ii) (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or

(B) has been in operation on the proposed sublicense premises for at least 10 years.

(b) After the commission issues an arena license in accordance with Subsection (4)(a),

SB0173S02 compared with SB0173

the commission may not issue the arena licensee an additional sublicense.

Section 3. Section **32B-1-304** is amended to read:

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

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

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

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

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

(B) a crime involving moral turpitude; or

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

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

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

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

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

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

SB0173S02 compared with SB0173

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

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

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

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

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

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

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

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

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

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

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

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

SB0173S02 compared with SB0173

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

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

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

(b) The commission may not issue a package agency, [~~license~~] license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

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

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

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

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

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

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

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

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

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

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

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

SB0173S02 compared with SB0173

total issued and outstanding stock of the corporation; or

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

(c) For purposes of Subsection (5)(b), the commission may not consider a minor's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency, license, or permit unless the minor would exercise direct decision making control over the package agency, license, or permit.

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

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

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

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

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

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

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

Section 4. Section 32B-1-603 is amended to read:

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

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

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

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

(3) (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer

SB0173S02 compared with SB0173

wants to distribute in this state subject to the manufacturer holding:

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

(ii) a certificate of approval.

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

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

(a) a statement of process; or

(b) a formula.

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

(i) Subsection 32B-1-102(43)(a)(ii), as shown by a determination issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or

(ii) Subsection 32B-1-102(43)(a)(iii).

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

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

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

Section ~~{4}~~5. Section ~~{32B-1-703}~~32B-1-603.5 is ~~{amended to read:~~
enacted to read:

32B-1-603.5. Requirements for beer flavorings -- Procedure for approval.

(1) To obtain approval for use of a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent in a beer as described in Subsection 32B-1-102(11)(b)(iii), the manufacturer of

SB0173S02 compared with SB0173

the beer shall submit an application to the department for approval.

(2) The application shall require:

(a) a copy of:

(i) the statement of process and formula filed with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 for the beer; and

(ii) the formula approval from the federal Alcohol and Tobacco Tax and Trade Bureau for the beer;

(b) a complete list of each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent in the beer;

(c) a description of the total amount of alcohol each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent contributes to the beer; and

(d) other information required by the department to determine whether the beer meets the requirements described in Subsection 32B-1-102(11)(b)(iii).

(3) The department may assess a fee established under Section 63J-1-504 for reviewing an application for approval under this section.

(4) A manufacturer shall obtain the department's approval for a revision to previously approved flavoring agents used in a beer before the beer may be distributed or sold in this state.

(5) (a) The department may revoke a previous approval under this section upon a finding that the beer is not in compliance with this title or rules of the commission.

(b) The department shall notify the manufacturer that applied for an approval under this section at least 30 business days before the day on which the approval is revoked.

(c) Within 20 business days after the day on which a manufacturer receives the notice under Subsection (5)(b), the manufacturer may present written argument or evidence to the department regarding why the revocation should not occur.

(6) (a) A manufacturer that applies for approval under this section may appeal a denial or revocation of the approval to the commission.

(b) During the period in which a manufacturer appeals a denial or revocation to the commission under Subsection (6)(a), the denial or revocation remains in force.

Section 6. Section **32B-1-703** is amended to read:

32B-1-703. Alcohol training and education for off-premise consumption.

(1) (a) A local authority that issues an off-premise beer retailer license to a business to

SB0173S02 compared with SB0173

sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

- (i) an off-premise retail manager; or
- (ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar [~~within 30 days of~~] in accordance with Section 62A-15-401 before the day on which the individual [~~becomes~~] begins work as staff of an off-premise beer retailer.

(c) An off-premise beer retailer may not permit an individual who is not in compliance with Subsection (1)(b) to:

(i) directly supervise the sale of beer to a customer for consumption off the premises of the off-premise beer retailer; or

(ii) sell beer to a customer for consumption off the premises of the off-premise beer retailer.

~~{(2) A licensee that violates this section is subject to Section 32B-1-702.~~

~~—}{(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.]~~

(2) A licensee that violates this section is subject to Section 32B-1-702.

~~[(2) In accordance with Section 32B-1-702, a local authority may immediately suspend the license of an off-premise beer retailer that allows an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).]~~

Section ~~{5}~~7. Section **32B-1-705** is amended to read:

32B-1-705. Tracking certain enforcement actions.

(1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee or off-premise beer retailer commits, the commission shall:

(a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);

SB0173S02 compared with SB0173

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who committed the violation;

(ii) the name of the retail licensee or off-premise beer retailer; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.

(2) (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public Safety receives in accordance with Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist the commission in assessing penalties under this title; and

(ii) inform a retail licensee or off-premise beer retailer of an individual who has a violation history in the system.

(3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section ~~6~~8. Section **32B-2-202** is amended to read:

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

(1) The commission shall:

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

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

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

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

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

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

SB0173S02 compared with SB0173

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

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

SB0173S02 compared with SB0173

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

SB0173S02 compared with SB0173

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

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

(3) (a) Subject to ~~[Subsection]~~ Subsections (3)(b) and (c), the commission may~~[-(i)]~~ make rules permitting and establishing the parameters of a late license renewal~~[-and]~~.

~~[(ii) establish a fee, in accordance with Section 63J-1-504, for a late license renewal.]~~

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

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

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

(c) The fee for a late license renewal is \$300.

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

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

Section 9. Section 32B-2-303 is amended to read:

32B-2-303. Purchase of liquor.

~~[(1) The]~~

(1) ~~f The~~ (a) Except as provided in Subsection (1)(b), the department may not purchase or stock spirituous liquor in a container smaller than 200 milliliters~~[-except as otherwise allowed by the commission]~~.

(b) (i) The department may purchase or stock spirituous liquor in a container smaller than 200 milliliters for the purpose of furnishing the spirituous liquor to a public service permittee issued a permit under Chapter 10, Part 3, Public Service Permit.

(ii) The department may only furnish spirituous liquor in a container smaller than 200

SB0173S02 compared with SB0173

milliliters to a public service permittee issued a permit under Chapter 10, Part 3, Public Service Permit.

(2) (a) An order by the department for the purchase of liquor, or a cancellation by the department of an order of liquor:

- (i) shall be executed in writing by the department; and
- (ii) is not valid or binding unless executed in writing.

(b) The department shall maintain a copy of an order or cancellation on file for at least three years.

(c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section ~~{7}~~10. Section **32B-4-202** is amended to read:

32B-4-202. Duties to enforce this title.

~~[(+)]~~ It is the duty of the following to diligently enforce this title in their respective capacities:

- ~~[(a)]~~ (1) the governor;
- ~~[(b)]~~ (2) a commissioner;
- ~~[(c)]~~ (3) the director;
- ~~[(d)]~~ (4) an official, inspector, or department employee;
- ~~[(e)]~~ (5) a prosecuting official of the state or its political subdivisions;
- ~~[(f)]~~ (6) a county, city, town, or metro township;
- ~~[(g)]~~ (7) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;
- ~~[(h)]~~ (8) a state health official; and
- ~~[(i)]~~ (9) a clerk of the court.

~~[(2) Immediately upon conviction of a person for violation of this title or of a local ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the department of the conviction in writing on forms supplied by the department.]~~

Section ~~{8}~~11. Section **32B-4-418** is amended to read:

32B-4-418. Unlawful storage.

It is unlawful for a person to store:

- (1) liquor on premises for which the person is authorized to sell beer for on-premise

SB0173S02 compared with SB0173

consumption, but for which the person is not licensed under this title to sell liquor[-]; or

(2) an alcoholic beverage for sale on premises for which the person is not licensed or otherwise authorized under this title to sell the alcoholic beverage.

Section 12. Section 32B-5-304 is amended to read:

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

(1) (a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title.

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

- (i) a secondary flavoring ingredient;
- (ii) used as a flavoring on a dessert; or
- (iii) used to set aflame a food dish, drink, or dessert.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:

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

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

(d) A patron may have no more than 2.5 ounces of spirituous liquor at a time.

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

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

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

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

~~(3)~~ (c) Notwithstanding Subsections (2)(a) and (b), a retail licensee may sell, offer for sale, or furnish hard cider that contains no more than 5% of alcohol by volume in a sealed

SB0173S02 compared with SB0173

container not to exceed 16 ounces.

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

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

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

(A) in an open original container; and

(B) in a container on draft.

(ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

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

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

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

(ii) in a size of container that does not exceed two liters.

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

Section ~~9~~13. Section **32B-5-309** is amended to read:

32B-5-309. Ceasing operation.

(1) Except as provided in Subsection (8), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:

(a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and

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

(2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.

(3) (a) The department may authorize an initial closure or cessation of operation of a

SB0173S02 compared with SB0173

retail licensee for a period not to exceed 60 days.

(b) Upon written request of the retail licensee and a showing of good cause, the department may extend the initial period described in Subsection (3)(a) for a period not to exceed the greater of:

(i) 30 days; or

(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled meeting.

(4) A closure or cessation of operation may not exceed the time limits described in Subsection (3) without commission approval.

(5) A notice required under this section shall include:

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

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

(c) the date on which the retail licensee will reopen or resume operation.

(6) ~~[Failure of]~~ If a retail licensee fails to provide notice and to obtain department approval before closure or cessation of operation [results in an automatic forfeiture of], the commission may:

(a) suspend, revoke, or deem forfeited the retail license; ~~[and]~~ or

(b) deem the unused portion of the retail license fee for the remainder of the retail license year ~~[effective immediately]~~ forfeited.

(7) ~~[Failure of]~~ If a retail licensee fails to reopen or resume operation by the [approved date results in an automatic forfeiture of] date approved under Subsections (3) and (4), the commission may:

(a) suspend, revoke, or deem forfeited the retail license; ~~[and]~~ or

(b) deem the unused portion of the retail license fee for the remainder of the retail license year forfeited.

(8) This section does not apply to:

(a) an on-premise beer retailer who is not a tavern;

(b) an airport lounge licensee; or

(c) a hospitality amenity licensee.

(9) For purposes of this section, the department may not base a determination that a retail licensee has ceased operation solely upon the retail licensee's lack of sales.

SB0173S02 compared with SB0173

Section ~~10~~14. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

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

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

SB0173S02 compared with SB0173

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) except as provided in Subsection (5)(b), consume the food at the same location

where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

~~[(ii) If]~~

~~(ii) If~~ (A) Subject to Subsection (5)(b)(ii)(B), if the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, ~~[an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall]~~ the patron may transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(B) An employee of the full-service restaurant licensee shall escort a patron who transports an unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is five ounces or less.

(c) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

SB0173S02 compared with SB0173

(d) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only if the patron is seated at:

- (a) a table that is located in a dining area or dispensing area;
- (b) a counter that is located in a dining area or dispensing area; or
- (c) a dispensing structure located in a dispensing area.

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

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

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

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

- (i) a dispensing structure that is located in a dispensing area;
- (ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid,

SB0173S02 compared with SB0173

translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee;

and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once annually.

SB0173S02 compared with SB0173

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

- (a) that the commission considers proper for the storage of wine; and
- (b) for the storage of wine that:
 - (i) the patron purchases from the full-service restaurant licensee; and
 - (ii) only the full-service restaurant licensee or staff of the full-service restaurant

licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306;

or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

Section ~~44~~15. Section **32B-6-206** is amended to read:

32B-6-206. Master full-service restaurant license.

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

- (i) owns each of the full-service restaurants;
- (ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection

SB0173S02 compared with SB0173

32B-6-203(3)(a).

(3) (a) A master full-service restaurant license expires on October 31 of each year.

(b) To renew a person's master full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4) (a) The nonrefundable application fee for a master full-service restaurant license is \$330.

(b) (i) The initial license fee for a master full-service restaurant license is ~~[\$10,000]~~ \$5,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(b).

(ii) The department may prorate the \$5,000 initial license fee based on the number of months out of a year the master full-service restaurant licensee is licensed before the day on which the master full-service restaurant license expires.

(c) ~~[The renewal fee for a]~~ To renew a master full-service restaurant license ~~[is {}\$1,000 {}\$500]~~ plus a the master full-service restaurant licensee shall pay a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of \$330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

SB0173S02 compared with SB0173

(b) A location covered by a master full-service restaurant license shall keep [its] the location's own records on [its] the location's premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) ~~[(a)]~~ If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

~~[(i)]~~ (a) the single location under a master full-service restaurant license;

~~[(ii)]~~ (b) individual staff of the location under the master full-service restaurant license;

or

~~[(iii)]~~ (c) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

~~[(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master full-service restaurant licensee or individual staff of the master full-service restaurant licensee if during a period beginning on November 1 and ending October 31:]~~

~~[(i) at least 25% of the locations covered by the master full-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or]~~

~~[(ii) at least 50% of the locations covered by the master full-service restaurant license have been found by the commission to have violated this title.]~~

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section ~~12~~16. Section **32B-6-305.2** is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

SB0173S02 compared with SB0173

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

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or
- (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A limited-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure that is located in a dispensing area; and

SB0173S02 compared with SB0173

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

~~[(ii) - If]~~

(ii) ~~[- If; (A) Subject to Subsection (5)(b)(ii)(B), if~~ the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, ~~[an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall]~~ the patron may transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(B) An employee of the limited-service restaurant licensee shall escort a patron who transports an unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

SB0173S02 compared with SB0173

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

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

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

(8) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the limited-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant

SB0173S02 compared with SB0173

licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

Section ~~{13}~~17. Section **32B-6-403** is amended to read:

32B-6-403. Commission's power to issue bar establishment license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [its] the person's premises as a bar establishment licensee, the person

SB0173S02 compared with SB0173

shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a bar establishment licensee.

(3) Subject to Section 32B-1-201 ~~{ and except as provided in Subsection (4) }~~:

~~[(a) (i) before July 1, 2018, the commission may not issue a total number of bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by 7,850; and]~~

~~(a) [(ii)] [beginning on July 1, 2018,]~~

~~— (a) }~~ the commission may not issue a total number of bar establishment licenses that at any time exceeds the [number] sum of:

(i) 20; and

(ii) the number determined by dividing the population of the state by 10,200;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to ~~[(i) a dining club licensee; or (ii)]~~ a bar licensee;

(c) ~~[(i) if the location, design, and construction of a hotel may require more than one dining club license or bar license location within the hotel to serve the public convenience,]~~ the commission may authorize as many as three bar establishment license locations within ~~[the]~~ a hotel under one bar establishment license if:

~~[(A)]~~ (i) the location, design, and construction of the hotel requires more than one bar license location within the hotel to serve the public convenience;

(ii) the hotel has a minimum of 150 guest rooms;

~~[(B)]~~ (iii) all locations under the bar establishment license are:

~~[(+)]~~ (A) within the same hotel; and

~~[(#)]~~ (B) on premises that are managed or operated, and owned or leased, by the bar establishment licensee; and]

~~[(C) { (iv) } the locations under the bar establishment license operate under the same type of bar establishment license; { } and]~~

(d) the commission may authorize up to five dispensing structures under one equity license if the locations under the equity license:

SB0173S02 compared with SB0173

(i) are connected by a private roadway to which the equity licensee, each member of the equity licensee, and each guest has a legal right of access; and

(ii) are managed or operated, and owned or leased, by the equity licensee;

~~[(ii)]~~ (e) except ~~as provided~~ for a facility operating in accordance with Subsection ~~(4)3~~(d) or a hotel, ~~if~~ a facility [other than a hotel] shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or furnished;

~~[(d)]~~ (f) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no bar establishment license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a bar establishment license;

(iii) subject to Subsection ~~(3)(e)~~, (3)(g) the licensed premises of the bar establishment license issued under this Subsection ~~(3)(d)~~ (3)(f) is at the same location where the bar establishment license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

~~[(e)]~~ (g) if a bar establishment licensee of a bar establishment license issued under Subsection ~~(3)(d)~~ (3)(f) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

~~{~~ ~~(4) (a) Fraternal and equity licenses are not considered in determining the total number of bar establishment licenses available under Subsection (3)(a).~~

~~_____~~ ~~(b) Subsection (3)(e) does not apply to a hotel or an equity licensee operating dispensing structures under Subsection (3)(d).~~

SB0173S02 compared with SB0173

‡ Section ~~{14}~~18. Section 32B-6-404 is amended to read:

32B-6-404. Types of bar license.

(1) To obtain an equity license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) except as provided in Subsection (8), own, maintain, or operate a ‡substantial‡ recreational facility in conjunction with a club house such as:

(i) a golf course; or

(ii) a tennis facility;

(c) have at least 50% of the total membership having an equal share of the equity of the entity or a right to redemption or refund at the equal value; and

(d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to an equal share of the equity of the entity or a right to redemption or refund at the equal value.

(2) To obtain a fraternal license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) have no capital stock;

(c) exist solely for:

SB0173S02 compared with SB0173

- (i) the benefit of its members and their beneficiaries; and
 - (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;
 - (d) have a representative form of government;
 - (e) have a lodge system in which:
 - (i) there is a supreme governing body;
 - (ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;
 - (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and
 - (iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and
 - (f) own or lease a building or space in a building used for lodge activities.
- (3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:
- (a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:
 - (i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and
 - (ii) for a dining club license that is issued on or before June 30, 2011:
 - (A) 50% on or before June 30, 2012; and
 - (B) 60% on and after July 1, 2012; and
 - (b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:
 - (i) the square footage and seating capacity of the premises;
 - (ii) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;
 - (iii) whether full meals including appetizers, main courses, and desserts are served;
 - (iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use

SB0173S02 compared with SB0173

the culinary facilities of the hotel or resort facility;

(v) whether the entertainment provided at the premises is suitable for minors; and

(vi) the club management's ability to manage and operate a dining club license

including:

(A) management experience;

(B) past dining club licensee or restaurant management experience; and

(C) the type of management scheme used by the dining club license.

(4) To obtain a bar license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).

(5) (a) At the time that the commission issues a bar establishment license, the commission shall designate the type of bar establishment license for which the person qualifies.

(b) If requested by a bar establishment licensee, the commission may approve a change in the type of bar establishment license in accordance with rules made by the commission.

(6) To the extent not prohibited by law, this part does not prevent a dining club licensee or bar licensee from restricting access to the licensed premises on the basis of an individual:

(a) paying a fee; or

(b) agreeing to being on a list of individuals who have access to the licensed premises.

(7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining club license.

(ii) No later than July 1, 2018, the department shall convert each dining club license to a full-service restaurant license or a bar license in accordance with the provisions of this Subsection (7).

(b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the department no later than May 31, 2018, whether the person elects to be licensed as a full-service restaurant or a bar.

(B) No later than July 1, 2018, the department shall convert a dining club license to a full-service restaurant license or a bar license in accordance with the dining club licensee's election under Subsection (7)(b)(i)(A).

(ii) If a dining club licensee fails to timely notify the department in accordance with Subsection (7)(b)(i), the dining club license is automatically converted to a full-service

SB0173S02 compared with SB0173

restaurant license on July 1, 2018.

(c) Subject to Section 32B-6-404.1, after a dining club license converts to a full-service restaurant license or a bar license, the retail licensee shall operate under the provisions that govern the full-service restaurant license or the bar license, as applicable.

(d) After a dining club license converts to a full-service restaurant license or a bar license in accordance with this Subsection (7):

(i) the full-service restaurant license is not considered in determining the total number of full-service restaurant licenses available under Section 32B-6-203; or

(ii) the bar license is not considered in determining the total number of bar establishment licenses available under Section 32B-6-403.

(e) Except as provided in Subsections (7)(a) and (b), before July 1, 2018, the commission may not issue a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license to a person who holds a dining club license on May 9, 2017, for the same premises.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing a procedure by which a dining club licensee elects and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

(8) Subsection (1)(b) does not apply to a person who renews an equity license issued before January 1, 2020, if the person did not meet the requirements under Subsection (1)(b) at the time the equity license was issued.

Section 19. Section 32B-6-406 is amended to read:

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

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

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

(i) a bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display

SB0173S02 compared with SB0173

in a conspicuous place at the entrance to the licensed premises a sign that:

- (a) measures at least 8-1/2 inches long and 11 inches wide; and
- (b) clearly states that the bar licensee is a bar and that no one under 21 years of age is

allowed.

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

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

requires.

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

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

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

- (i) begins at 1 a.m.; and
- (ii) ends at 9:59 a.m.

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

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

- (A) a single drink containing spirituous liquor;
- (B) except as provided in Subsection (4)(c)(i)(C), a single serving of wine not

exceeding five ounces;

(C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

[(C)] (D) a single serving of heavy beer;

[(D)] (E) a single serving of beer not exceeding 26 ounces; or

SB0173S02 compared with SB0173

~~(E)~~(F) a single serving of a flavored malt beverage.

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

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

(B) during an emergency.

(5) (a) A minor:

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

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

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

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

(A) when accompanied by an individual who is 21 years of age or older; and

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

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

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

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

(ii) handle an alcoholic product.

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

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

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

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

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous

SB0173S02 compared with SB0173

liquor for the other spirituous liquor drink.

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

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

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

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

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

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

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

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

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

Section ~~{15}~~20. Section **32B-6-503** is amended to read:

32B-6-503. Commission's power to issue airport lounge license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain an airport lounge license from the commission in accordance with this part.

(2) ~~[The]~~ Subject to Subsection (3), the commission may issue an airport lounge

SB0173S02 compared with SB0173

license:

(a) to establish airport lounge licensed premises beyond the security point at an international airport or a domestic airport; and

(b) in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on licensed premises operated as an airport lounge.

(3) (a) The commission may not issue more than ~~[13]~~ 26 airport lounge licenses for an international airport at any time.

(b) The commission may not issue ~~{more than one}~~ a total number of domestic airport airport lounge {license for a domestic airport at any time}:

~~Section 16. Section 32B-6-505 is amended to read:~~

~~32B-6-505. Specific operational requirements for an airport lounge license:~~

~~(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an airport lounge licensee and staff of the airport lounge licensee shall comply with this section.~~

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

~~(i) an airport lounge licensee;~~

~~(ii) individual staff of an airport lounge licensee; or~~

~~(iii) both an airport lounge licensee and staff of the airport lounge licensee.~~

~~(2) In addition to complying with Subsection 32B-5-301(3), an airport lounge licensee shall display in a prominent place in the airport lounge:~~

~~(a) a list of the types and brand names of liquor being furnished through airport lounge licensee's calibrated metered dispensing system; and~~

~~(b) a sign to inform the public that alcoholic products are sold and consumed on the licensed premises.~~

~~(3) Notwithstanding Section 32B-5-307:~~

~~(a) An airport lounge licensee may not permit a patron to bring a bottled wine onto the premises of the retail licensee.~~

~~(b) An airport lounge licensee may not permit a patron to remove an alcoholic product from the licensed premises.~~

SB0173S02 compared with SB0173

~~(4) (a) A server of an alcoholic product in an airport lounge licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.~~

~~(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.~~

~~(5) An airport lounge licensee may not sell, offer for sale, or furnish an alcoholic product at an airport lounge on any day during a period that:~~

~~(a) begins at [midnight] 1:00 a.m.; and~~

~~(b) ends at 7:59 a.m.~~

~~(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.~~

~~(b) A patron may not have two spirituous liquor drinks before the patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.~~

~~(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).~~

~~(7) An airport lounge licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, furnishing, or consumption of liquor menu including:~~

~~(a) a set-up charge;~~

~~(b) a service charge; or~~

~~(c) a chilling fee.~~

~~(8) An airport lounge liquor licensee's premises may not be leased for a private event.~~

~~Section 17} licenses that at any time exceeds three.~~

Section 21. Section **32B-6-603** is amended to read:

32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

(i) a hotel;

SB0173S02 compared with SB0173

- (ii) a resort facility;
- (iii) a sports center;
- (iv) a convention center;
- (v) a performing arts facility; [~~or~~]
- (vi) an arena[~~;~~]; or
- (vii) a restaurant venue.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission [may not]:

(a) may not issue a total number of restaurant venue on-premise banquet licenses that at any time exceeds 20; and

(b) may not issue a total number of on-premise banquet licenses that at any time [exceed] exceeds the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

SB0173S02 compared with SB0173

- (a) mix for an alcoholic product; or
- (b) a charge in connection with the furnishing of an alcoholic product.

Section ~~18~~22. Section **32B-6-605** is amended to read:

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

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

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

- (i) an on-premise banquet licensee;
- (ii) individual staff of an on-premise banquet licensee; or
- (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, performing arts facility, ~~[or arena]~~ arena, or restaurant venue that is the basis for the on-premise banquet license.

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

- (b) Any of the following may conduct a random inspection of a banquet:
- (i) an authorized representative of the commission or the department;
 - (ii) a law enforcement officer.

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

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

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

(b) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee,

SB0173S02 compared with SB0173

may not remove an alcoholic product from the premises of the banquet.

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

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

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

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

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

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

(B) unopened container of an alcoholic product.

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

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

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

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

(8) An on-premise banquet licensee:

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

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

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

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

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

(i) is not a spirituous liquor; and

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

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have

SB0173S02 compared with SB0173

more than two alcoholic products of any kind at a time before the patron.

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

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

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

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

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

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

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

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

Section ~~419~~23. Section **32B-6-905.1** is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

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

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

SB0173S02 compared with SB0173

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- (i) as a flavoring on a dessert; or
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (b) on a weekend or a state or federal legal holiday or for a private event, during the

period that begins at 10:30 a.m. and ends at 12:59 a.m.

(6) (a) A beer-only restaurant licensee may not furnish beer for on-premise consumption except after:

- (i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

- (A) a table that is located in a dining area or a dispensing area;
- (B) a counter that is located in a dining area or a dispensing area; or
- (C) a dispensing structure that is located in a dispensing area; and

- (ii) the beer-only restaurant licensee confirms that the patron intends to:

- (A) order food prepared, sold, and furnished at the licensed premises; and
- (B) except as provided in Subsection (6)(b), consume the food at the same location

where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed

SB0173S02 compared with SB0173

premises.

~~[(ii) If]~~

~~(ii) If (A) Subject to Subsection (6)(b)(ii)(B), if~~ the patron does not finish the patron's beer before moving to a seat in the dining area, ~~[an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall]~~ the patron may transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(B) An employee of the beer-only restaurant licensee shall escort a patron who transports an unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

(d) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(7) A patron may consume a beer on the beer-only licensee's licensed premises only at:

- (a) a table that is located in a dining area or a dispensing area;
- (b) a counter that is located in a dining area or a dispensing area; or
- (c) a dispensing structure located in a dispensing area.

(8) A patron may not have more than two beers at a time before the patron.

(9) In accordance with the provisions of this section, an individual who is at least 21 years old may consume food and beverages in a dispensing area.

(10) (a) Except as provided in Subsection (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years old and working as an employee of the beer-only restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

SB0173S02 compared with SB0173

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee;

and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once annually.

Section 24. Section 32B-6-1005 is amended to read:

32B-6-1005. Specific operational requirements for hospitality amenity license.

SB0173S02 compared with SB0173

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

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

- (i) the hospitality amenity licensee;
- (ii) individual staff of the hospitality amenity licensee; or
- (iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

- (i) to a hospitality guest; and
- (ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time

SB0173S02 compared with SB0173

before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

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

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest in or on the hospitality amenity licensed premises may finish consuming:

(i) a single drink containing spirituous liquor;

(ii) except as provided in Subsection (5)(b)(iii), a single serving of wine not exceeding five ounces;

(iii) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

~~(iii)~~ (iv) a single serving of heavy beer;

~~(iv)~~ (v) a single serving of beer not exceeding 26 ounces; or

~~(v)~~ (vi) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

(i) after all individuals have vacated the licensee's licensed premises; or

(ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an alcoholic product free of charge or at a reduced rate, if:

(i) the alcoholic product is not a spirituous liquor; and

(ii) the hospitality amenity licensee offers the alcohol product:

(A) to all hospitality guests;

(B) during a specific time; and

SB0173S02 compared with SB0173

(C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) Notwithstanding Section 32B-5-307, a hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality

SB0173S02 compared with SB0173

amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under Section 32B-5-302; and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a hospitality amenity licensee at least once annually.

Section 25. Section 32B-7-409 is amended to read:

32B-7-409. Multiple licenses on same premises.

(1) Except as provided in Subsection (2), the commission may not issue and one or more licensees may not hold an off-premise beer retailer state license for the same licensed premises or adjacent licensed premises as a retail licensee, unless the licensed premises:

(a) are separated by a permanent, opaque, floor-to-ceiling wall;

(b) each have a separate entrance to the licensed premises; and

(c) each have separate restroom facilities on the licensed premises.

(2) (a) The commission may issue and an off-premise beer retailer state licensee may hold more than one type of license for the same licensed premises or adjacent licensed premises, if:

~~[(a)]~~ (i) a manufacturing licensee is located on or adjacent to the licensed premises; and

~~[(b)]~~ (ii) a package agency is located on or adjacent to the licensed premises.

(b) The commission may issue an off-premise beer retailer state license for the same licensed premises or adjacent licensed premises as a hotel licensee or hotel sublicensee.

Section ~~{20}~~26. Section 32B-8-401 is amended to read:

32B-8-401. Specific operational requirements for resort license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.

(b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the resort licensee;

SB0173S02 compared with SB0173

(ii) individual staff of the resort licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

(2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; [~~or~~]

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency[~~;~~]; or

(iv) through room service.

(b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

(i) if on a sublicense premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; [~~and~~]

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency[~~;~~]; and

(iv) if through room service, in accordance with Subsection (5).

(3) A resort licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of the resort licensee's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

(4) (a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.

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

SB0173S02 compared with SB0173

(5) (a) Room service of an alcoholic product to a lodging accommodation of a resort licensee shall be provided in person by staff of the resort licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

Section ~~{21}~~27. Section **32B-8b-102** is amended to read:

32B-8b-102. Definitions.

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real property owned or managed by the same person and on which a hotel is located.

(2) "Hotel" means one or more buildings that:

(a) comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

~~[(d) provide room service within the boundary of the hotel meeting the requirements of this title;]~~

~~[(e) (d) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;~~

~~[(f) (e) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and]~~

~~[(g) (f) have at least 40 rooms as temporary sleeping accommodations for compensation.]~~

Section ~~{22}~~28. Section **32B-8b-301** is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

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

SB0173S02 compared with SB0173

- (i) the hotel licensee;
 - (ii) individual staff of the hotel licensee;
 - (iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;
 - (iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or
 - (v) any combination of the persons listed in this Subsection (1)(b).
- (2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:
- (i) on sublicensed premises;
 - (ii) pursuant to a permit issued under this title; [~~or~~]
 - (iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency[~~;~~]; or
 - (iv) through room service.
- (b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:
- (i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;
 - (ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; [~~and~~]
 - (iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency[~~;~~]; and
 - (iv) if through room service, in accordance with Subsection (4).
- (c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.
- (3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.
- (4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of the hotel licensee only to an adult occupant in

SB0173S02 compared with SB0173

the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

- (a) mix for an alcoholic product; and
- (b) a charge in connection with the service of an alcoholic product.

Section 29. Section 32B-8d-103 is amended to read:

32B-8d-103. Commission's power to issue a sublicense.

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

- (a) this chapter;
- (b) Chapter 8, Resort License Act;
- (c) Chapter 8b, Hotel License Act; and
- (d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

- (i) a principal licensee; or
- (ii) a person seeking a principal license, contingent on the issuance of the principal license.

license.

(b) The commission may not:

- (i) issue a sublicense that is separate from a principal license; or
- (ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) ~~[(a) Except as provided in Subsection (3)(b), when]~~ When determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

SB0173S02 compared with SB0173

~~[(b) If a resort license includes a sublicense that before the issuance of the resort license was a retail license that was not a bar establishment license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.]~~

(4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:

- (a) a nonrefundable \$300 application fee;
- (b) an initial license fee of \$2,250, which the commission shall refund if the commission does not issue the proposed sublicense;
- (c) written consent of the local authority;
- (d) a copy of:
 - (i) the principal licensee's current business; and
 - (ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;
- (e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;
- (f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:
 - (i) each location at which the principal licensee proposes that an alcoholic product be stored; and
 - (ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;
- (g) evidence that the principal licensee carries:
 - (i) public liability insurance in an amount and form satisfactory to the department; and
 - (ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;
- (h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter the proposed sublicensed premises;
 - (i) if the principal licensee is an entity, proper verification evidencing that a person

SB0173S02 compared with SB0173

who signs the application is authorized to sign on behalf of the entity; and

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

Section 30. Section 32B-8d-205 is amended to read:

32B-8d-205. Specific operational requirements for a spa sublicense.

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

(b) A spa sublicensee or a person otherwise operating under a spa sublicense and staff of a spa sublicensee or a person otherwise operating under a spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

(c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a resort licensee;

(ii) staff of a resort licensee;

(iii) a hotel licensee;

(iv) staff of a hotel licensee;

(v) a spa sublicensee or person otherwise operating under a spa sublicense;

(vi) individual staff of a spa sublicensee or person otherwise operating under a spa sublicense; or

(vii) any combination of the persons listed in Subsections (1)(c)(i) through (vi).

(2) (a) For purposes of the spa sublicense, the corresponding resort licensee or hotel licensee shall ensure that a record is maintained or used for the spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

(c) A resort licensee or a hotel licensee shall allow the department, through a compliance officer of the department, to audit the records for a spa sublicense at the times the

SB0173S02 compared with SB0173

department considers advisable.

(d) The department shall audit the records for a spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A spa sublicensee or person operating under a spa sublicense may not sell, offer for sale, or furnish liquor at a spa during a period that:

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

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

(b) A spa sublicensee or person operating under a spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a spa shall remain open for one hour after the spa ceases the sale and furnishing of an alcoholic product during which time a person at the spa may finish consuming:

(A) a single drink containing spirituous liquor;

(B) except as provided in Subsection (3)(c)(i)(C), a single serving of wine not exceeding five ounces;

(C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

~~(D)~~ (D) a single serving of heavy beer;

~~(E)~~ (E) a single serving of beer not exceeding 26 ounces; or

~~(F)~~ (F) a single serving of a flavored malt beverage.

(ii) A spa is not required to remain open:

(A) after all individuals have vacated the spa sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on the sublicensed premises of a spa sublicense unless accompanied by an individual 21 years old or older.

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a spa sublicense:

(i) may only be admitted into or be on a lounge or bar area of the spa sublicensee's sublicensed premises momentarily while en route to another area of the spa; and

SB0173S02 compared with SB0173

(ii) may not remain or sit in the lounge or bar area of the spa sublicensee's sublicensed premises.

(5) A spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the spa sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A spa patron may not have two spirituous liquor drinks before the spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A spa sublicensee or person operating under a spa sublicense shall have available on the spa sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the spa sublicensee including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(9) (a) A resort licensee or hotel licensee shall own or lease premises suitable for the spa sublicense's activities.

(b) A resort licensee or hotel licensee may not maintain premises in a manner that barricades or conceals the spa sublicense's operation.

(10) Subject to the other provisions of this section, a spa sublicensee or person

SB0173S02 compared with SB0173

operating under a spa sublicense may not sell an alcoholic product to or allow an individual to be admitted to or use the spa sublicensee's sublicensed premises other than:

- (a) a resident; or
- (b) a customer.

Section ~~{23}~~31. Section **32B-9-202** is amended to read:

32B-9-202. Duties before issuing event permit.

(1) (a) Before the director may issue an event permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the director as to whether the director should issue an event permit.

(b) The department shall [~~forward~~] provide the information and recommendations described in Subsection (1)(a) to the director [~~and the Compliance, Licensing, and Enforcement Subcommittee]~~ to aid in the director's determination.

(2) Before issuing an event permit, the director shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-9-201; and

(ii) the relevant part under this chapter for the type of event permit for which the person is applying;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the purpose of the organization or its local lodge, chapter, or other local unit;

(d) consider the times, dates, location, estimated attendance, nature, and purpose of the event;

(e) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the event, determine that adequate and appropriate control measures and adequate and appropriate enforcement measures are in place at the event to assure that minors will not be sold or furnished alcohol and that adults will not be overserved, except that adequate and appropriate control and enforcement measures may be different for small, large, indoor, or outdoor events;

(f) determine that the event permit is not being sought by the person as a means to circumvent other applicable requirements of this title, notwithstanding that the applicant may hold one or more licenses issued under this title;

SB0173S02 compared with SB0173

(g) consider, for the period of three years before the date of the event, the violation history of:

(i) the applicant; and

(ii) the venue where the event will be held;

(h) provide the information and recommendations described in Subsection (1) to, and obtain the approval of, the Compliance, Licensing, and Enforcement Subcommittee [~~before issuing an event permit~~];

(i) notify each commissioner [~~at least three business days~~] before the director issues the event permit in accordance with Subsection (3); and

(j) consider any other factor the director considers necessary.

(3) (a) [~~The~~] Except as provided in Subsections (3)(d) and (e), the director shall [~~inform~~] notify each commissioner of the director's preliminary decision to issue or deny the issuance of an event permit three business days before the day on which the decision is to be final.

(b) The preliminary decision becomes a final decision of the director unless:

(i) [~~unless~~] within three business days [~~of receipt of~~] after the day on which the notice is received at least three of the commissioners request a meeting to discuss whether the event permit should be issued; or

(ii) the director modifies or revokes the preliminary decision to issue or deny issuance of the event permit.

(c) If three or more of the commissioners request a meeting[~~;~~]:

(i) the applicant for the event permit shall be notified; and

(ii) the commission shall:

[(~~it~~)] (A) [~~shall~~] hold a meeting on the application for an event permit no later than the next regularly scheduled meeting of the commission; and

[(~~it~~)] (B) [~~shall~~] issue the event permit if the applicant meets the requirements of this chapter or [~~shall~~] deny issuance of the event permit if the applicant fails to meet the requirements of this chapter.

(d) The commission may waive the three business day notice period described in Subsection (3)(a) on behalf of a commissioner.

[(~~d~~)] (e) (i) [~~Notwithstanding the other provisions of this Subsection (3), the~~] The

SB0173S02 compared with SB0173

director may at any time refer an application for an event permit directly to the commission for a determination as to whether an event permit should be issued or denied.

~~[(e)]~~ (ii) For purposes of this title, an event permit issued by the commission is to be treated the same as an event permit issued by the director.

(f) If the commission finds that an event permit was improperly issued or that the permittee has violated this chapter, the commission may take any action permitted under this title.

(4) Once the director issues an event permit, the department shall send a copy of the approved application and the event permit by written or electronic means to the state and local law enforcement authorities at least three days before the event.

(5) The director shall provide the commission a monthly report of the actions taken by the director under this part.

(6) If authorized by the director, the deputy director may act on behalf of the director for purposes of issuing an event permit under this chapter.

Section ~~{24}~~32. Section ~~{32B-10-404}~~32B-11-209 is amended to read:

~~{~~ ~~32B-10-404. Specific operational requirements for industrial or manufacturing use permit.~~

~~—— (1) (a) In addition to complying with Section 32B-10-206, an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee shall comply with this section:~~

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

~~—— (i) an industrial or manufacturing use permittee;~~

~~—— (ii) individual staff of an industrial or manufacturing use permittee; or~~

~~—— (iii) an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee.~~

~~—— (2) An industrial or manufacturing use permittee may produce for lawful use and sale the following:~~

~~—— [(a) vinegar;]~~

~~—— [(b) preserved nonintoxicating cider;]~~

~~—— [(c)] (a) a food preparation;~~

SB0173S02 compared with SB0173

~~— [(d)] (b) a United States Pharmacopoeia or national formulary preparation that is an alcoholic product and in conformity with Title 58, Chapter 17b, Pharmacy Practice Act, Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, and Chapter 37c, Utah Controlled Substance Precursor Act, if the preparation:~~

~~— (i) conforms to standards established by:~~

~~— (A) the Department of Agriculture and Food; and~~

~~— (B) the Department of Health and Human Services; and~~

~~— (ii) contains no more alcohol than is necessary to preserve or extract the medicinal, flavoring, or perfumed properties of the treated substances; [and] or~~

~~— [(e)] (c) wood and denatured alcohol if manufactured in compliance with the formulas and regulations under Title 27, C.F.R. Parts 19, 20, and 21.~~

~~— (3) (a) An industrial or manufacturing use permittee that produces patent or proprietary [medicines] medicine containing alcohol may sell or offer for sale the [medicines] medicine in the original and unbroken container if the medicine contains sufficient medication to prevent [its] the medicine's use as an alcoholic product.~~

~~— (b) An industrial or manufacturing use permittee described in this Subsection (3) shall, upon request by the department, provide a sufficient sample of the medicine to enable the department to have the medicine analyzed for purposes of this section.~~

~~— Section 25. Section **32B-11-209** is amended to read:~~

‡ **32B-11-209. Notifying department of change in ownership.**

The commission may suspend [~~or~~], revoke, or deem forfeited a manufacturing license if the manufacturing licensee does not immediately notify the department of a change in:

(1) ownership of the manufacturing licensee;

(2) for a corporate owner, the:

(a) corporate officers or directors; or

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

(3) for a limited liability company:

(a) managers; or

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

SB0173S02 compared with SB0173

Section 33. Section 32B-11-210 is amended to read:

32B-11-210. Tasting provided by manufacturing licensee.

(1) As used in this section:

(a) "Parcel" means the same identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.

(b) "Taste" means an amount of an alcoholic product provided by a manufacturing licensee for consumption under this section.

(2) A manufacturing licensee may provide for a tasting in accordance with this section.

(3) Before conducting a tasting, the manufacturing licensee shall provide the department:

(a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the manufacturing licensee were a retail licensee;

(b) a floor plan, and boundary map where applicable, of the premises of the manufacturing licensee, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic product to be tasted;

(c) evidence that the manufacturing licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(d) evidence that the manufacturing licensee is carrying dramshop insurance coverage in an amount and form satisfactory to the department; and

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

(4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day during the period that:

(a) begins at midnight; and

(b) ends at 10:59 a.m.

(5) A person who serves a taste on behalf of the manufacturing licensee shall complete an alcohol training and education seminar as if the person were employed by a retail licensee.

(6) (a) A manufacturing licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed

SB0173S02 compared with SB0173

during the time period when tasting occurs.

(b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the manufacturing licensee produces alcoholic product, in a building on the same parcel as the building where the manufacturing licensee produces alcoholic product, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).

(7) (a) A manufacturing licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.

(b) The commission may define what constitutes "substantial food" by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.

(8) A manufacturing licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.

(9) (a) A manufacturing licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:

(i) ~~5 ounces of wine~~ for a winery manufacturing licensee~~;~~;

~~(ii) 2.5 ounces of spirituous liquor~~ A) except as provided in Subsection (9)(a)(i)(B), five ounces of wine; or

(B) 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;

(ii) for a distillery manufacturing licensee, 2.5 ounces of spirituous liquor [for a distillery manufacturing licensee]; or

(iii) for a brewery manufacturing licensee, 16 ounces of beer, heavy beer, or flavored malt beverages ~~[for a brewery manufacturing licensee].~~

(b) A manufacturing licensee may not allow an individual to participate in more than one tasting within a calendar day.

(10) A manufacturing licensee may provide a taste of alcoholic product that is:

(a) manufactured by the manufacturing licensee; and

(b) purchased by the manufacturing licensee from:

(i) a state store or package agency; or

SB0173S02 compared with SB0173

(ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).

(11) (a) A manufacturing licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:

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

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

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

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

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

(b) (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.

(c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).

(12) A manufacturing licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.

(13) A manufacturing licensee that conducts tastings under a scientific or educational use permit issued by the commission as of May 10, 2016, shall comply with this section by no later than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-206(1)(c), effective no later than January 1, 2017, the commission shall take action on a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

Section ~~{26}~~34. Section **32B-11-609** is amended to read:

32B-11-609. Notifying department of change in ownership.

The commission may suspend ~~[or]~~, revoke, or deem forfeited a local industry representative license if a local industry representative licensee does not [immediately] notify

SB0173S02 compared with SB0173

the department, within 60 days after the day on which the change occurs, of a change in:

- (1) ownership of the business;
- (2) for a corporate owner, the:
 - (a) corporate officers or directors; or
 - (b) shareholders holding at least 20% of the total issued and outstanding stock of the

corporation; or

- (3) for a limited liability company:
 - (a) managers; or
 - (b) members owning at least 20% of the limited liability company.

Section ~~{27}~~35. Section **32B-12-302** is amended to read:

32B-12-302. Notifying the department of change in ownership.

The commission may suspend [~~or~~], revoke, or deem forfeited a liquor warehousing license if a liquor warehouser licensee does not [~~immediately~~] notify the department, within 60 days after the day on which the change occurs, of a change in:

- (1) ownership of the liquor warehouser licensee;
- (2) for a corporate owner, the:
 - (a) corporate officers or directors; or
 - (b) shareholders holding at least 20% of the total issued and outstanding stock of the

corporation; or

- (3) for a limited liability company:
 - (a) managers; or
 - (b) members owning at least 20% of the limited liability company.

Section ~~{28}~~36. Section **32B-17-102** is amended to read:

32B-17-102. Definitions.

As used in this chapter:

- (1) "Airport licensee" means a person who holds a valid:
 - (a) retail license for premises located at an international airport or domestic airport; or
 - (b) special use permit for premises located at an international airport or domestic

airport.

- (2) "Central receiving and distribution center" means a facility that:
 - (a) operates at an international airport or domestic airport;

SB0173S02 compared with SB0173

(b) receives goods and supplies delivered to the international airport or domestic airport for an airport licensee;

(c) screens the goods and supplies described in Subsection (2)(b) for security purposes; and

(d) distributes the goods and supplies described in Subsection (2)(b) to the airport licensee for whom the goods and supplies were delivered.

Section ~~{29}~~37. Section **32B-18-204** is amended to read:

32B-18-204. Notifying department of change in ownership.

The commission may suspend ~~{or}~~, revoke, or deem forfeited an alcohol license if the alcohol licensee does not notify the department, within 60 days after the day on which the change occurs, of a change in:

(1) ownership of the business entity holding the alcohol license;

(2) for a corporate owner, the:

(a) corporate officers or directors of the alcohol licensee; or

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

(3) for a limited liability company:

(a) managers of the limited liability company; or

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

Section ~~{30}~~38. Section **32B-18-205** is amended to read:

32B-18-205. Management agreements -- Inventory transfers.

(1) (a) ~~{(i)}~~ A management agreement may provide for the sharing of revenue from a business utilizing an alcohol license, including revenue from the sale of ~~{food,}~~ an alcoholic ~~{product, or another}~~ product, if, regardless of which party holds the alcohol license, [all parties to the management agreement qualify under Section 32B-1-304 to hold the license.]

~~—— (ii) An owner or operator of a business utilizing an alcohol license who is a party to the management agreement may apply for the license if }~~ neither the owner nor operator ~~{are}~~ is disqualified from holding the license for a previous violation of this title.

(b) The parties to a management agreement shall submit to the department:

(i) a copy of the management agreement; and

(ii) any other information the department requires.

SB0173S02 compared with SB0173

(c) If there is a material change to the management agreement submitted to the department under Subsection (1)(b), the parties to the management agreement shall submit to the department the following within 30 days after the day on which the change occurs:

- (i) a copy of the changed management agreement; and
- (ii) any other information the department requires.

(2) (a) Notwithstanding any other provision of this title, in connection with a change of ownership described in Section 32B-18-202 or an asset sale of an alcohol licensee, the parties to the transaction may enter into an inventory transfer agreement ~~or a lease agreement.~~

~~f.~~

(b) The inventory transfer agreement described in Subsection (2)(a) may allow for the transfer of inventory between parties regardless of whether the parties hold or are applying for the same retail license.

(3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of:

- (a) a management agreement; or
- (b) an inventory transfer agreement.

Section ~~31~~39. Section **62A-15-401** is amended to read:

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

(1) As used in this ~~part~~ section:

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

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

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

and

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

(ii) a business that is:

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

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

(c) "Licensee staff" means a retail manager, retail staff, an off-premise retail manager, or off-premise retail staff.

SB0173S02 compared with SB0173

~~[(e)]~~ (d) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(e) "Off-premise retail manager" means the same as that term is defined in Section 32B-1-701.

(f) "Off-premise retail staff" means the same as that term is defined in Section 32B-1-701.

(g) "Retail manager" means the same as that term is defined in Section 32B-1-701.

(h) "Retail staff" means the same as that term is defined in Section 32B-1-701.

~~[(d)]~~ (i) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to~~[:]~~ licensee staff.

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

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

~~[(iii) an individual who, as defined by division rule;]~~

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

~~[(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.]~~

(b) ~~[If the]~~ An individual who does not have a valid record that the individual has completed an alcohol training and education seminar~~[-, an individual described in Subsection (2)(a)]~~ shall:

(i) complete an alcohol training and education seminar before the day on which the individual begins work as licensee staff of a licensee; and

~~[(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):]~~

~~[(I) if the individual is an employee, the day the individual begins employment;]~~

~~[(II) if the individual is an independent contractor, the day the individual is first hired; or]~~

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

~~[(B) complete an alcohol training and education seminar within the time periods~~

SB0173S02 compared with SB0173

~~specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and]~~

(ii) pay a fee~~[-(A)]~~ to the seminar provider~~[-and-(B)]~~ that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to ~~[engage in an activity described in Subsection (2)(a)]~~ act as licensee staff.

(d) A record that ~~[an individual]~~ licensee staff has completed an alcohol training and education seminar is valid for~~[-(i)]~~ three years ~~[from]~~ after the day on which the record is issued ~~[for an individual described in Subsection (2)(a)(i) or (ii); and]~~.

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

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

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

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

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

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

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

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

~~[(iii)]~~ (C) measures to track the actual time an individual taking the online course or

SB0173S02 compared with SB0173

test is actively engaged online;

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

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

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

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

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

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

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

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

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

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

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

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

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

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

SB0173S02 compared with SB0173

(4) The division shall:

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

(ii) certify one or more seminar providers;

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

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

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

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

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

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

and

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

(c) recertify each seminar provider every three years;

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

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

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

(i) the Department of Alcoholic Beverage Services;

(ii) law enforcement; or

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

(g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

~~[(a) define what constitutes under this section an individual who:]~~

~~[(f) manages operations at the premises of a licensee engaged in the retail sale of an~~

SB0173S02 compared with SB0173

~~alcoholic product for consumption on the premises of the licensee;]~~

~~[(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;]~~

~~[(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;]~~

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

~~[(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;]~~

~~[(b)]~~ (a) establish criteria for certifying and recertifying a seminar provider; and

~~[(c)]~~ (b) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

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

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

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

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

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

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,

SB0173S02 compared with SB0173

Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days after the day on which the suspension begins;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days [~~from the date~~] after the day on which the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.