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ALCOHOL AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to convert the dining club license to a dining license and to make other changes related to licensing.

Highlighted Provisions:

This bill:

- ▶ removes references to the term "dining club license" and replaces those references with "dining license" when appropriate;
- ▶ addresses operational requirements for restaurants;
- ▶ addresses guests of fraternal clubs;
- ▶ addresses advertising by an equity or fraternal club;
- ▶ provides for conditional dining licenses and modifies the time period for conditional licenses;
- ▶ addresses quota numbers for club licenses, dining licenses, and reception centers;
- ▶ enacts provisions creating a dining license, including:
 - addressing the commission's power to issue a dining license;
 - addressing specific licensing requirements for a dining license;
 - addressing specific operational requirements for a dining license; and
 - addressing conversion of dining licenses to other types of retail licenses; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 This bill takes effect on July 1, 2013.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **32B-1-102**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

34 **32B-1-201**, as last amended by Laws of Utah 2011, Chapter 334

35 **32B-1-407**, as last amended by Laws of Utah 2011, Chapters 297 and 334

36 **32B-2-202**, as last amended by Laws of Utah 2012, Chapter 365

37 **32B-2-210**, as enacted by Laws of Utah 2012, Chapter 365

38 **32B-2-605**, as last amended by Laws of Utah 2012, Chapter 365

39 **32B-5-205**, as enacted by Laws of Utah 2010, Chapter 276

40 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334

41 **32B-6-205**, as last amended by Laws of Utah 2011, Chapters 307 and 334

42 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334

43 **32B-6-305**, as last amended by Laws of Utah 2011, Chapters 307 and 334

44 **32B-6-403**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

45 **32B-6-404**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

46 **32B-6-405**, as last amended by Laws of Utah 2011, Chapters 307 and 334

47 **32B-6-406**, as last amended by Laws of Utah 2011, Chapter 334

48 **32B-6-407**, as last amended by Laws of Utah 2011, Chapter 297

49 **32B-6-803**, as enacted by Laws of Utah 2011, Chapter 334

50 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

51 **32B-6-905**, as enacted by Laws of Utah 2011, Chapter 334

52 ENACTS:

53 **32B-6-1001**, Utah Code Annotated 1953

54 **32B-6-1002**, Utah Code Annotated 1953

55 **32B-6-1003**, Utah Code Annotated 1953

56 **32B-6-1004**, Utah Code Annotated 1953

57 **32B-6-1005**, Utah Code Annotated 1953

58 **32B-6-1006**, Utah Code Annotated 1953

59 REPEALS:

60 **32B-6-409**, as enacted by Laws of Utah 2011, Chapter 334



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

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

64 **32B-1-102. Definitions.**

65 As used in this title:

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

67 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

68 (b) that is located at an international airport with a United States Customs office on the
69 premises of the international airport.

70 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

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

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

73 (a) beer; or

74 (b) liquor.

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

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

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

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

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

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

84 (ii) vinegar;

85 (iii) cider;

86 (iv) essence;

87 (v) tincture;

88 (vi) food preparation; or

89 (vii) an over-the-counter medicine.

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

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

93 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

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

95 (6) "Banquet" means an event:

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

98 (i) hotel;

99 (ii) resort facility;

100 (iii) sports center; or

101 (iv) convention center;

102 (b) for which there is a contract:

103 (i) between a person operating a facility listed in Subsection (6)(a) and another person;

104 and

105 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
106 provide an alcoholic product at the event; and

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

108 (7) (a) "Bar" means a surface or structure:

109 (i) at which an alcoholic product is:

110 (A) stored; or

111 (B) dispensed; or

112 (ii) from which an alcoholic product is served.

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

115 (i) stored; or

116 (ii) dispensed.

117 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

118 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
119 volume or 3.2% by weight; and

120 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

- 121 (b) "Beer" may or may not contain hops or other vegetable products.
- 122 (c) "Beer" includes a product that:
 - 123 (i) contains alcohol in the percentages described in Subsection (8)(a); and
 - 124 (ii) is referred to as:
 - 125 (A) beer;
 - 126 (B) ale;
 - 127 (C) porter;
 - 128 (D) stout;
 - 129 (E) lager; or
 - 130 (F) a malt or malted beverage.
 - 131 (d) "Beer" does not include a flavored malt beverage.
 - 132 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
133 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
 - 134 (10) "Beer retailer" means a business:
 - 135 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
136 whether for consumption on or off the business premises; and
 - 137 (b) to whom a license is issued:
 - 138 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
139 Beer Retailer Local Authority; or
 - 140 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
141 and Chapter 6, Part 7, On-premise Beer Retailer License.
 - 142 (11) "Beer wholesaling license" means a license:
 - 143 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - 144 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
145 retail licensees or off-premise beer retailers.
 - 146 (12) "Billboard" means a public display used to advertise, including:
 - 147 (a) a light device;
 - 148 (b) a painting;
 - 149 (c) a drawing;
 - 150 (d) a poster;
 - 151 (e) a sign;

- 152 (f) a signboard; or
- 153 (g) a scoreboard.
- 154 (13) "Brewer" means a person engaged in manufacturing:
- 155 (a) beer;
- 156 (b) heavy beer; or
- 157 (c) a flavored malt beverage.
- 158 (14) "Brewery manufacturing license" means a license issued in accordance with
- 159 Chapter 11, Part 5, Brewery Manufacturing License.
- 160 (15) "Certificate of approval" means a certificate of approval obtained from the
- 161 department under Section 32B-11-201.
- 162 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 163 a bus company to a group of persons pursuant to a common purpose:
- 164 (a) under a single contract;
- 165 (b) at a fixed charge in accordance with the bus company's tariff; and
- 166 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 167 motor vehicle, and a driver to travel together to one or more specified destinations.
- 168 (17) "Church" means a building:
- 169 (a) set apart for worship;
- 170 (b) in which religious services are held;
- 171 (c) with which clergy is associated; and
- 172 (d) that is tax exempt under the laws of this state.
- 173 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
- 174 License Act, and Chapter 6, Part 4, Club License.
- 175 (b) "Club license" includes:
- 176 [~~(i) a dining club license;~~]
- 177 [(~~ii~~) (i) an equity club license;
- 178 [(~~iii~~) (ii) a fraternal club license; or
- 179 [(~~iv~~) (iii) a social club license.
- 180 (19) "Commission" means the Alcoholic Beverage Control Commission created in
- 181 Section 32B-2-201.
- 182 (20) "Commissioner" means a member of the commission.

183 (21) "Community location" means:

184 (a) a public or private school;

185 (b) a church;

186 (c) a public library;

187 (d) a public playground; or

188 (e) a public park.

189 (22) "Community location governing authority" means:

190 (a) the governing body of the community location; or

191 (b) if the commission does not know who is the governing body of a community

192 location, a person who appears to the commission to have been given on behalf of the

193 community location the authority to prohibit an activity at the community location.

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

195 (a) a bottle;

196 (b) a vessel; or

197 (c) a similar item.

198 (24) "Convention center" means a facility that is:

199 (a) in total at least 30,000 square feet; and

200 (b) otherwise defined as a "convention center" by the commission by rule.

201 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
202 dining area of a licensed premises where seating is provided to a patron for service of food.

203 (b) "Counter" does not include a surface or structure if on or at any point of the surface
204 or structure an alcoholic product is:

205 (i) stored; or

206 (ii) dispensed.

207 (26) "Department" means the Department of Alcoholic Beverage Control created in
208 Section 32B-2-203.

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

210 (a) an auditor or inspector; and

211 (b) employed by the department.

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

214 (29) "Dining [~~club~~] license" means a license issued in accordance with Chapter 5,
215 Retail License Act, and Chapter 6, Part [4] 10, [~~Club~~] Dining License[-that is designated by
216 the commission as a dining club license].

217 (30) "Director," unless the context requires otherwise, means the director of the
218 department.

219 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
220 title:

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

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

223 (32) (a) Subject to Subsection (32)(b), "dispense" means:

224 (i) drawing of an alcoholic product:

225 (A) from an area where it is stored; or

226 (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),

227 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

228 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of
229 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the
230 retail licensee.

231 (b) The definition of "dispense" in this Subsection (32) applies only to:

232 (i) a full-service restaurant license;

233 (ii) a limited-service restaurant license;

234 (iii) a reception center license; and

235 (iv) a beer-only restaurant license.

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

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

240 (35) "Educational facility" includes:

241 (a) a nursery school;

242 (b) an infant day care center; and

243 (c) a trade and technical school.

244 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail

245 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an
246 equity club license.

247 (37) "Event permit" means:

248 (a) a single event permit; or

249 (b) a temporary beer event permit.

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

253 (39) (a) "Flavored malt beverage" means a beverage:

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

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

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

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

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

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

264 (40) "Fraternal club license" means a license issued in accordance with Chapter 5,
265 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
266 as a fraternal club license.

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

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

271 (b) "Furnish" includes to:

272 (i) serve;

273 (ii) deliver; or

274 (iii) otherwise make available.

275 (43) "Guest" means an individual who meets the requirements of Subsection

276 32B-6-407(9).

277 (44) "Health care practitioner" means:

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

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

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

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

282 Act;

283 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,

284 Nurse Practice Act;

285 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy

286 Practice Act;

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

288 Therapy Practice Act;

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

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

291 Professional Practice Act;

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

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

294 Practice Act;

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

296 Hygienist Practice Act; and

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

298 (45) (a) "Heavy beer" means a product that:

299 (i) contains more than 4% alcohol by volume; and

300 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

302 (46) "Hotel" is as defined by the commission by rule.

303 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,

304 Part 8, Identification Card Act.

305 (48) "Industry representative" means an individual who is compensated by salary,

306 commission, or other means for representing and selling an alcoholic product of a

307 manufacturer, supplier, or importer of liquor.

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

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

314 (a) law; or

315 (b) court order.

316 (51) "Intoxicated" means that a person:

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

319 (i) an alcoholic product;

320 (ii) a controlled substance;

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

322 (iv) a combination of Subsections (51)(a)(i) through (iii); and

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

325 (52) "Investigator" means an individual who is:

326 (a) a department compliance officer; or

327 (b) a nondepartment enforcement officer.

328 (53) "Invitee" is as defined in Section 32B-8-102.

329 (54) "License" means:

330 (a) a retail license;

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

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

334 or

335 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

336 (55) "Licensee" means a person who holds a license.

337 (56) "Limited-service restaurant license" means a license issued in accordance with

338 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

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

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

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

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

347 (58) (a) (i) "Liquor" means a liquid that:

348 (A) is:

349 (I) alcohol;

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

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

352 (IV) other drink or drinkable liquid; and

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

354 (II) is suitable to use for beverage purposes.

355 (ii) "Liquor" includes:

356 (A) heavy beer;

357 (B) wine; and

358 (C) a flavored malt beverage.

359 (b) "Liquor" does not include beer.

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

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

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

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

365 (61) "Local authority" means:

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

368 (b) for premises that are located in an incorporated city or a town, the governing body

369 of the city or town.

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

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

373 (64) "Member" means an individual who, after paying regular dues, has full privileges
374 in an equity club licensee or fraternal club licensee.

375 (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
376 or homeport facility for a ship:

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

378 (B) of the National Guard;

379 (ii) that is located within the state; and

380 (iii) including a leased facility.

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

382 (i) civil works;

383 (ii) a rivers and harbors project; or

384 (iii) a flood control project.

385 (66) "Minor" means an individual under the age of 21 years.

386 (67) "Nondepartment enforcement agency" means an agency that:

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

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

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

390 (68) "Nondepartment enforcement officer" means an individual who is:

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

392 (b) employed by a nondepartment enforcement agency.

393 (69) (a) "Off-premise beer retailer" means a beer retailer who is:

394 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
395 Authority; and

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

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

399 (70) "On-premise banquet license" means a license issued in accordance with Chapter

400 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

401 (71) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

410 (A) as a tavern; or

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

412 (72) "Opaque" means impenetrable to sight.

413 (73) "Package agency" means a retail liquor location operated:

414 (a) under an agreement with the department; and

415 (b) by a person:

416 (i) other than the state; and

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

419 (74) "Package agent" means a person who holds a package agency.

420 (75) "Patron" means an individual to whom food, beverages, or services are sold,
421 offered for sale, or furnished, or who consumes an alcoholic product including:

422 (a) a customer;

423 (b) a member;

424 (c) a guest;

425 (d) an attendee of a banquet or event;

426 (e) an individual who receives room service;

427 (f) a resident of a resort;

428 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

429 or

430 (h) an invitee.

- 431 (76) "Permittee" means a person issued a permit under:
- 432 (a) Chapter 9, Event Permit Act; or
- 433 (b) Chapter 10, Special Use Permit Act.
- 434 (77) "Person subject to administrative action" means:
- 435 (a) a licensee;
- 436 (b) a permittee;
- 437 (c) a manufacturer;
- 438 (d) a supplier;
- 439 (e) an importer;
- 440 (f) one of the following holding a certificate of approval:
- 441 (i) an out-of-state brewer;
- 442 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 443 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 444 (g) staff of:
- 445 (i) a person listed in Subsections (77)(a) through (f); or
- 446 (ii) a package agent.
- 447 (78) "Premises" means a building, enclosure, or room used in connection with the
- 448 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 449 unless otherwise defined in this title or rules made by the commission.
- 450 (79) "Prescription" means an order issued by a health care practitioner when:
- 451 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 452 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 453 (b) the order is made in the course of that health care practitioner's professional
- 454 practice; and
- 455 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 456 (80) (a) "Private event" means a specific social, business, or recreational event:
- 457 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 458 group; and
- 459 (ii) that is limited in attendance to people who are specifically designated and their
- 460 guests.
- 461 (b) "Private event" does not include an event to which the general public is invited,

462 whether for an admission fee or not.

463 (81) (a) "Proof of age" means:

464 (i) an identification card;

465 (ii) an identification that:

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

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

468 identification is issued;

469 (C) includes date of birth; and

470 (D) has a picture affixed;

471 (iii) a valid driver license certificate that:

472 (A) includes date of birth;

473 (B) has a picture affixed; and

474 (C) is issued:

475 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

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

477 (iv) a military identification card that:

478 (A) includes date of birth; and

479 (B) has a picture affixed; or

480 (v) a valid passport.

481 (b) "Proof of age" does not include a driving privilege card issued in accordance with

482 Section 53-3-207.

483 (82) (a) "Public building" means a building or permanent structure that is:

484 (i) owned or leased by:

485 (A) the state; or

486 (B) a local government entity; and

487 (ii) used for:

488 (A) public education;

489 (B) transacting public business; or

490 (C) regularly conducting government activities.

491 (b) "Public building" does not include a building owned by the state or a local

492 government entity when the building is used by a person, in whole or in part, for a proprietary

493 function.

494 (83) "Public conveyance" means a conveyance to which the public or a portion of the
495 public has access to and a right to use for transportation, including an airline, railroad, bus,
496 boat, or other public conveyance.

497 (84) "Reception center" means a business that:

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

499 (b) has as its primary purpose the leasing of the facilities described in Subsection
500 (84)(a) to a third party for the third party's event.

501 (85) "Reception center license" means a license issued in accordance with Chapter 5,
502 Retail License Act, and Chapter 6, Part 8, Reception Center License.

503 (86) (a) "Record" means information that is:

504 (i) inscribed on a tangible medium; or

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

506 (b) "Record" includes:

507 (i) a book;

508 (ii) a book of account;

509 (iii) a paper;

510 (iv) a contract;

511 (v) an agreement;

512 (vi) a document; or

513 (vii) a recording in any medium.

514 (87) "Residence" means a person's principal place of abode within Utah.

515 (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

516 (89) "Resort" is as defined in Section 32B-8-102.

517 (90) "Resort facility" is as defined by the commission by rule.

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

520 (92) "Restaurant" means a business location:

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

522 (b) at which complete meals are served to the general public; and

523 (c) that is engaged primarily in serving meals to the general public.

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

- 525 (a) a full-service restaurant license;
- 526 (b) a limited-service restaurant license;
- 527 (c) a club license;
- 528 (d) an airport lounge license;
- 529 (e) an on-premise banquet license;
- 530 (f) an on-premise beer license;
- 531 (g) a reception center license; [~~or~~]
- 532 (h) a beer-only restaurant license[-]; or
- 533 (i) a dining license.

534 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
535 of a:

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

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

539 (96) (a) "School" means a building used primarily for the general education of minors.

540 (b) "School" does not include an educational facility.

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

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

- 548 (a) for the entertainment of one or more patrons;
- 549 (b) on the premises of:
 - 550 (i) a social club licensee; or
 - 551 (ii) a tavern;
- 552 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
- 553 (d) on a contractual or voluntary basis; and
- 554 (e) whether or not the person is designated as:

- 555 (i) an employee;
- 556 (ii) an independent contractor;
- 557 (iii) an agent of the licensee; or
- 558 (iv) a different type of classification.
- 559 (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 560 Single Event Permit.
- 561 (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 562 beer, heavy beer, and flavored malt beverages per year.
- 563 (101) "Social club license" means a license issued in accordance with Chapter 5, Retail
- 564 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 565 social club license.
- 566 (102) "Special use permit" means a permit issued in accordance with Chapter 10,
- 567 Special Use Permit Act.
- 568 (103) (a) "Spirituous liquor" means liquor that is distilled.
- 569 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 570 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 571 (104) "Sports center" is as defined by the commission by rule.
- 572 (105) (a) "Staff" means an individual who engages in activity governed by this title:
- 573 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 574 holder;
- 575 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 576 certificate holder; or
- 577 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 578 or certificate holder.
- 579 (b) "Staff" includes:
- 580 (i) an officer;
- 581 (ii) a director;
- 582 (iii) an employee;
- 583 (iv) personnel management;
- 584 (v) an agent of the licensee, including a managing agent;
- 585 (vi) an operator; or

- 586 (vii) a representative.
- 587 (106) "State of nudity" means:
- 588 (a) the appearance of:
- 589 (i) the nipple or areola of a female human breast;
- 590 (ii) a human genital;
- 591 (iii) a human pubic area; or
- 592 (iv) a human anus; or
- 593 (b) a state of dress that fails to opaquely cover:
- 594 (i) the nipple or areola of a female human breast;
- 595 (ii) a human genital;
- 596 (iii) a human pubic area; or
- 597 (iv) a human anus.
- 598 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
- 599 more than:
- 600 (a) the nipple and areola of the female human breast in a shape and color other than the
- 601 natural shape and color of the nipple and areola; and
- 602 (b) the human genitals, pubic area, and anus:
- 603 (i) with no less than the following at its widest point:
- 604 (A) four inches coverage width in the front of the human body; and
- 605 (B) five inches coverage width in the back of the human body; and
- 606 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 607 (108) (a) "State store" means a facility for the sale of packaged liquor:
- 608 (i) located on premises owned or leased by the state; and
- 609 (ii) operated by a state employee.
- 610 (b) "State store" does not include:
- 611 (i) a package agency;
- 612 (ii) a licensee; or
- 613 (iii) a permittee.
- 614 (109) (a) "Storage area" means an area on licensed premises where the licensee stores
- 615 an alcoholic product.
- 616 (b) "Store" means to place or maintain in a location an alcoholic product from which a

617 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
618 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or
619 32B-6-905(12)(b)(ii).

620 (110) "Sublicense" is as defined in Section 32B-8-102.

621 (111) "Supplier" means a person who sells an alcoholic product to the department.

622 (112) "Tavern" means an on-premise beer retailer who is:

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

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

627 (113) "Temporary beer event permit" means a permit issued in accordance with
628 Chapter 9, Part 4, Temporary Beer Event Permit.

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

632 (115) "Translucent" means a substance that allows light to pass through, but does not
633 allow an object or person to be seen through the substance.

634 (116) "Unsaleable liquor merchandise" means a container that:

635 (a) is unsaleable because the container is:

636 (i) unlabeled;

637 (ii) leaky;

638 (iii) damaged;

639 (iv) difficult to open; or

640 (v) partly filled;

641 (b) (i) has faded labels or defective caps or corks;

642 (ii) has contents that are:

643 (A) cloudy;

644 (B) spoiled; or

645 (C) chemically determined to be impure; or

646 (iii) contains:

647 (A) sediment; or

648 (B) a foreign substance; or

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

650 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the
651 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
652 another ingredient is added.

653 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
654 in this title.

655 (118) "Winery manufacturing license" means a license issued in accordance with
656 Chapter 11, Part 3, Winery Manufacturing License.

657 Section 2. Section **32B-1-201** is amended to read:

658 **32B-1-201. Restrictions on number of retail licenses that may be issued --**
659 **Determining population -- Exempt licenses.**

660 (1) As used in this section:

661 (a) "Alcohol-related law enforcement officer" means a law enforcement officer
662 employed by the Department of Public Safety that has as a primary responsibility:

663 (i) the enforcement of this title; or

664 (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and
665 Reckless Driving.

666 (b) "Enforcement ratio" is the number calculated as follows:

667 (i) determine the quotient equal to the total number of quota retail licenses available
668 divided by the total number of alcohol-related law enforcement officers; and

669 (ii) round the number determined in accordance with Subsection (1)(b)(ii) up to the
670 nearest whole number.

671 (c) "Quota retail license" means:

672 (i) a full-service restaurant license;

673 (ii) a limited-service restaurant license;

674 (iii) a club license;

675 (iv) an on-premise banquet license;

676 (v) an on-premise beer retailer operating as a tavern; [~~and~~]

677 (vi) a reception center license[~~;~~]; and

678 (vii) a dining license.

679 (d) "Total number of alcohol-related law enforcement officers" means the total number
680 of positions designated as alcohol-related law enforcement officers that are funded as of a
681 specified date as certified by the Department of Public Safety to the department.

682 (e) "Total number of quota retail licenses available" means the number calculated by:

683 (i) determining as of a specified date for each quota retail license the number of
684 licenses that the commission may not exceed calculated by dividing the population of the state
685 by the number specified in the relevant provision for the quota retail license; and

686 (ii) adding together the numbers determined under Subsection (1)(d)(i).

687 (2) (a) Beginning on July 1, 2012, the department shall annually determine the
688 enforcement ratio as of July 1 of that year.

689 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the
690 commission may not issue a quota retail license for the 12-month period beginning on the July
691 1 for which the enforcement ratio is greater than 52.

692 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license
693 during the 12-month period described in Subsection (2)(b) beginning on the day on which a
694 sufficient number of alcohol-related law enforcement officers are employed so that if the
695 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

696 (d) Once the Department of Public Safety certifies under Subsection (1)(d) the total
697 number of positions designated as alcohol-related law enforcement officers that are funded as
698 of July 1, the Department of Public Safety may not use the funding for the designated
699 alcohol-related law enforcement officers for a purpose other than funding those positions.

700 (3) For purposes of determining the number of state stores that the commission may
701 establish or the number of package agencies or retail licenses that the commission may issue,
702 the commission shall determine population by:

703 (a) the most recent United States decennial or special census; or

704 (b) another population determination made by the United States or state governments.

705 (4) The commission may not consider a retail license that meets the following
706 conditions in determining the total number of licenses available for that type of retail license
707 that the commission may issue at any time:

708 (a) the retail license was issued to a club licensee designated as a dining club as of July
709 1, 2011; and

710 (b) the dining [~~club~~] license is converted to another type of retail license in accordance
711 with Section [~~32B-6-409~~] 32B-6-1006.

712 Section 3. Section **32B-1-407** is amended to read:

713 **32B-1-407. Verification of proof of age by applicable licensees.**

714 (1) As used in this section, "applicable licensee" means:

715 (a) a dining [~~club~~] license;

716 (b) a social club; or

717 (c) a tavern.

718 (2) Notwithstanding any other provision of this part, an applicable licensee shall
719 require that an authorized person for the applicable licensee verify proof of age as provided in
720 this section.

721 (3) An authorized person is required to verify proof of age under this section before an
722 individual who appears to be 35 years of age or younger:

723 (a) gains admittance to the premises of a social club licensee or tavern; or

724 (b) procures an alcoholic product on the premises of a dining [~~club~~] licensee.

725 (4) To comply with Subsection (3), an authorized person shall:

726 (a) request the individual present proof of age; and

727 (b) (i) verify the validity of the proof of age electronically under the verification
728 program created in Subsection (5); or

729 (ii) if the proof of age cannot be electronically verified as provided in Subsection
730 (4)(b)(i), request that the individual comply with a process established by the commission by
731 rule.

732 (5) The commission shall establish by rule an electronic verification program that
733 includes the following:

734 (a) the specifications for the technology used by the applicable licensee to
735 electronically verify proof of age, including that the technology display to the person described
736 in Subsection (2) no more than the following for the individual who presents the proof of age:

737 (i) the name;

738 (ii) the age;

739 (iii) the number assigned to the individual's proof of age by the issuing authority;

740 (iv) the birth date;

741 (v) the gender; and
742 (vi) the status and expiration date of the individual's proof of age; and
743 (b) the security measures that shall be used by an applicable licensee to ensure that
744 information obtained under this section is:

745 (i) used by the applicable licensee only for purposes of verifying proof of age in
746 accordance with this section; and

747 (ii) retained by the applicable licensee for seven days after the day on which the
748 applicable licensee obtains the information.

749 (6) (a) An applicable licensee may not disclose information obtained under this section
750 except as provided under this title.

751 (b) Information obtained under this section is considered a record for any purpose
752 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

753 Section 4. Section **32B-2-202** is amended to read:

754 **32B-2-202. Powers and duties of the commission.**

755 (1) The commission shall:

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

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

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

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

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

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

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

768 (i) a package agency;

769 (ii) a full-service restaurant license;

770 (iii) a limited-service restaurant license;

771 (iv) a club license;

- 772 (v) an airport lounge license;
- 773 (vi) an on-premise banquet license;
- 774 (vii) a resort license, under which four or more sublicenses may be included;
- 775 (viii) an on-premise beer retailer license;
- 776 (ix) a reception center license;
- 777 (x) a beer-only restaurant license;
- 778 (xi) a dining license;
- 779 [~~(xi)~~] (xii) subject to Subsection (4), a single event permit;
- 780 [~~(xii)~~] (xiii) subject to Subsection (4), a temporary beer event permit;
- 781 [~~(xiii)~~] (xiv) a special use permit;
- 782 [~~(xiv)~~] (xv) a manufacturing license;
- 783 [~~(xv)~~] (xvi) a liquor warehousing license;
- 784 [~~(xvi)~~] (xvii) a beer wholesaling license; and
- 785 [~~(xvii)~~] (xviii) one of the following that holds a certificate of approval:
- 786 (A) an out-of-state brewer;
- 787 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 788 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 789 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
- 790 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
- 791 manufacture, and distribution of an alcoholic product:
- 792 (i) a conditional full-service restaurant license; [~~or~~]
- 793 (ii) a conditional limited-service restaurant license; or
- 794 (iii) a conditional dining license;
- 795 (g) prescribe the duties of the department in assisting the commission in issuing a
- 796 package agency, license, permit, or certificate of approval under this title;
- 797 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 798 in accordance with Section 63J-1-504;
- 799 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 800 agencies, and retail licensees;
- 801 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 802 class, variety, or brand of liquor kept for sale by the department;

- 803 (k) (i) require the director to follow sound management principles; and
804 (ii) require periodic reporting from the director to ensure that:
805 (A) sound management principles are being followed; and
806 (B) policies established by the commission are being observed;
- 807 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
808 and matters submitted by the director to the commission; and
809 (ii) do the things necessary to support the department in properly performing the
810 department's duties;
- 811 (m) obtain temporarily and for special purposes the services of an expert or person
812 engaged in the practice of a profession, or a person who possesses a needed skill if:
813 (i) considered expedient; and
814 (ii) approved by the governor;
- 815 (n) prescribe the conduct, management, and equipment of premises upon which an
816 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
- 817 (o) make rules governing the credit terms of beer sales within the state to retail
818 licensees; and
- 819 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
820 disciplinary action against a person subject to administrative action.
- 821 (2) Consistent with the policy established by the Legislature by statute, the power of the
822 commission to do the following is plenary, except as otherwise provided by this title, and not
823 subject to review:
- 824 (a) establish a state store;
825 (b) issue authority to act as a package agent or operate a package agency; and
826 (c) issue or deny a license, permit, or certificate of approval.
- 827 (3) If the commission is authorized or required to make a rule under this title, the
828 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
829 Rulemaking Act.
- 830 (4) Notwithstanding Subsections (1)(e)(xi) and (xii), the director or deputy director
831 may issue an event permit in accordance with Chapter 9, Event Permit Act.
- 832 Section 5. Section **32B-2-210** is amended to read:
833 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

834 (1) There is created within the department an advisory board known as the "Alcoholic
835 Beverage Control Advisory Board."

836 (2) The advisory board shall consist of 12 members as follows:

837 (a) the following voting members appointed by the commission, a representative of:

838 (i) a full-service restaurant licensee;

839 (ii) a limited-service restaurant licensee;

840 (iii) a beer-only restaurant licensee;

841 (iv) a social club licensee;

842 (v) a fraternal club licensee;

843 (vi) a dining [~~club~~] licensee;

844 (vii) a wholesaler licensee;

845 (viii) an on-premise banquet licensee;

846 (ix) an on-premise beer retailer licensee; and

847 (x) a reception center licensee;

848 (b) the chair of the Utah Substance Abuse Advisory Council, or the chair's designee,
849 who serves as a voting member; and

850 (c) the chair of the commission or the chair's designee from the members of the
851 commission, who shall serve as a nonvoting member.

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

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

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

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

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

865 (5) The advisory board shall meet no more than quarterly as called by the chair for the
866 purpose of advising the commission and the department, with discussion limited to
867 administrative rules made under this title.

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

870 (7) (a) Six members of the board constitute a quorum of the board.

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

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

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

875 (a) Section 63A-3-106;

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

877 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
878 63A-3-107.

879 Section 6. Section **32B-2-605** is amended to read:

880 **32B-2-605. Operational requirements for package agency.**

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

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

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

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

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

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

895 (v) Notwithstanding that this part refers to "package agency" or "package agent," staff

896 of the package agency or package agent is subject to the same requirement or prohibition.

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

898 (i) the package agent; or

899 (ii) an individual designated by the package agent.

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

901 (i) an employee of the package agent; and

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

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

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

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

908 (f) A package agent shall:

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

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

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

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

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

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

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

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

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

926 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a

927 serious crime that is prosecuted aggressively in Utah."

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

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

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

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

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

938 (b) At the discretion of the department, liquor may be provided by the department to a
939 package agency for sale on consignment.

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

944 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price
945 fixed by the commission.

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

947 (a) a minor;

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

949 (c) a known interdicted person; or

950 (d) a known habitual drunkard.

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

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

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

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

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

957 (10) (a) A package agency may not close or cease operation for a period longer than 72

958 hours, unless:

959 (i) the package agency notifies the department in writing at least seven days before the
960 closing; and

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

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

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

966 (ii) The department may extend the initial period an additional 30 days upon written
967 request of the package agency and upon a showing of good cause.

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

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

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

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

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

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

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

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

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

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

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

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

988 (A) on Sunday; or

989 (B) on a state or federal legal holiday.

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

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

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

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

999 (A) a full-service restaurant license;

1000 (B) a limited-service restaurant license;

1001 (C) a beer-only restaurant license; or

1002 (D) a dining [~~club~~] license;

1003 (iii) the restaurant or dining [~~club~~] license premises is located at the manufacturing
1004 facility;

1005 (iv) the restaurant or dining [~~club~~] license premises sells an alcoholic product produced
1006 at the manufacturing facility;

1007 (v) the manufacturing facility:

1008 (A) owns the restaurant or dining [~~club~~] license; or

1009 (B) operates the restaurant or dining [~~club~~] license;

1010 (vi) the package agency only sells an alcoholic product produced at the manufacturing
1011 facility; and

1012 (vii) the package agency's days and hours of sale are the same as the days and hours of
1013 sale at the restaurant or dining [~~club~~] license.

1014 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if
1015 the package agent that holds the package agency to sell liquor at the resort does not sell liquor
1016 in a manner similar to a state store.

1017 (ii) The commission may by rule define what constitutes a package agency that sells
1018 liquor "in a manner similar to a state store."

1019 (14) (a) Except to the extent authorized by commission rule, a minor may not be

1020 admitted into, or be on the premises of a package agency unless accompanied by a person who
1021 is:

1022 (i) 21 years of age or older; and

1023 (ii) the minor's parent, legal guardian, or spouse.

1024 (b) A package agent or staff of a package agency that has reason to believe that a
1025 person who is on the premises of a package agency is under the age of 21 and is not
1026 accompanied by a person described in Subsection (14)(a) may:

1027 (i) ask the suspected minor for proof of age;

1028 (ii) ask the person who accompanies the suspected minor for proof of age; and

1029 (iii) ask the suspected minor or the person who accompanies the suspected minor for
1030 proof of parental, guardianship, or spousal relationship.

1031 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
1032 suspected minor and to the person who accompanies the suspected minor into the package
1033 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1034 (d) A package agent or staff of a package agency shall require the suspected minor and
1035 the person who accompanies the suspected minor into the package agency to immediately leave
1036 the premises of the package agency if the minor or person fails to provide information specified
1037 in Subsection (14)(b).

1038 (15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed
1039 container.

1040 (b) A person may not open a sealed container on the premises of a package agency.

1041 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or
1042 furnish liquor in other than a sealed container:

1043 (i) if the package agency is the type of package agency that authorizes the package
1044 agency to sell, offer for sale, or furnish the liquor as part of room service;

1045 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1046 (iii) subject to:

1047 (A) staff of the package agency providing the liquor in person only to an adult guest in
1048 the guest room;

1049 (B) staff of the package agency not leaving the liquor outside a guest room for retrieval
1050 by a guest; and

1051 (C) the same limits on the portions in which an alcoholic product may be sold by a
1052 retail licensee under Section 32B-5-304.

1053 (16) On or after October 1, 2011, a package agency may not sell, offer for sale, or
1054 furnish heavy beer in a sealed container that exceeds two liters.

1055 (17) The department may pay or otherwise remunerate a package agent on any basis,
1056 including sales or volume of business done by the package agency.

1057 (18) The commission may prescribe by policy or rule general operational requirements
1058 of a package agency that are consistent with this title and relate to:

1059 (a) physical facilities;

1060 (b) conditions of operation;

1061 (c) hours of operation;

1062 (d) inventory levels;

1063 (e) payment schedules;

1064 (f) methods of payment;

1065 (g) premises security; and

1066 (h) any other matter considered appropriate by the commission.

1067 Section 7. Section **32B-5-205** is amended to read:

1068 **32B-5-205. Conditional retail license.**

1069 (1) As used in this section:

1070 (a) "Conditional retail license" means a retail license that:

1071 (i) is for one of the following:

1072 (A) a full-service restaurant license; [or]

1073 (B) a limited-service restaurant license; or

1074 (C) a dining license.

1075 (ii) conditions the holder's ability to sell, offer for sale, furnish, or allow the
1076 consumption of an alcoholic product on its licensed premises on the person submitting to the
1077 department a copy of the holder's current business license before obtaining a valid retail
1078 license; and

1079 (iii) provides that the holder will be issued a valid retail license if the holder complies
1080 with the requirements of Subsection (3).

1081 (b) "Valid retail license" means a retail license issued pursuant to this part under which

1082 the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1083 product on its licensed premises.

1084 (2) Subject to the requirements of this section, the commission may issue a conditional
1085 retail license to a person if the person:

1086 (a) meets the requirements to obtain the retail license for which the person is applying
1087 except the requirement to submit a copy of the person's current business license; and

1088 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
1089 product on its licensed premises before obtaining a valid retail license.

1090 (3) (a) A conditional retail license becomes a valid retail license on the day on which
1091 the department notifies the person who holds the conditional retail license that the department
1092 finds that the person has complied with Subsection (3)(b).

1093 (b) For a conditional retail license to become a valid retail license, a person who holds
1094 the conditional retail license shall:

1095 (i) submit to the department a copy of the person's current business license; and

1096 (ii) provide to the department evidence satisfactory to the department that:

1097 (A) there has been no change in the information submitted to the commission as part of
1098 the person's application for a retail license; and

1099 (B) the person continues to qualify for the retail license.

1100 (4) A conditional retail license expires [~~six~~] 12 months after the day on which the
1101 commission issues the conditional retail license, unless the conditional retail license becomes a
1102 valid retail license before that day. The commission may extend the period of the conditional
1103 retail license upon a showing of good cause for a period not to exceed 12 additional months.

1104 Section 8. Section **32B-6-202** is amended to read:

1105 **32B-6-202. Definitions.**

1106 As used in this part:

1107 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
1108 full-service restaurant licensee that:

1109 (i) as of May 11, 2009, has:

1110 (A) patron seating at the bar structure;

1111 (B) a partition at one or more locations on the bar structure that is along:

1112 (I) the width of the bar structure; or

- 1113 (II) the length of the bar structure; and
- 1114 (C) facilities for the dispensing or storage of an alcoholic product:
- 1115 (I) on the portion of the bar structure that is separated by the partition described in
- 1116 Subsection (1)(a)(i)(B); or
- 1117 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar
- 1118 structure in a manner visible to a patron sitting at the bar structure;
- 1119 (ii) is not operational as of May 12, 2009, if:
- 1120 (A) a person applying for a full-service restaurant license:
- 1121 (I) has as of May 12, 2009, a building permit to construct the restaurant;
- 1122 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
- 1123 defined by rule made by the commission; and
- 1124 (III) is issued the full-service restaurant license by no later than December 31, 2009;
- 1125 and
- 1126 (B) once constructed, the licensed premises has a bar structure described in Subsection
- 1127 (1)(a)(i);
- 1128 (iii) as of May 12, 2009, has no patron seating at the bar structure; or
- 1129 (iv) is not operational as of May 12, 2009, if:
- 1130 (A) a person applying for a full-service restaurant license:
- 1131 (I) has as of May 12, 2009, a building permit to construct the restaurant;
- 1132 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
- 1133 defined by rule made by the commission; and
- 1134 (III) is issued a full-service restaurant license by no later than December 31, 2009; and
- 1135 (B) once constructed, the licensed premises has a bar structure with no patron seating.
- 1136 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
- 1137 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
- 1138 grandfathered bar structure, as defined by rule made by the commission.
- 1139 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
- 1140 bar structure notwithstanding whether a restaurant undergoes a change of ownership.
- 1141 (2) "Seating grandfathered bar structure" means:
- 1142 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or
- 1143 (b) a bar structure grandfathered under Section [~~32B-6-409~~] 32B-6-1006.

1144 Section 9. Section **32B-6-205** is amended to read:

1145 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

1146 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1147 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
1148 shall comply with this section.

1149 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1150 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1151 (i) a full-service restaurant licensee;

1152 (ii) individual staff of a full-service restaurant licensee; or

1153 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
1154 licensee.

1155 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
1156 licensee shall display in a prominent place in the restaurant a list of the types and brand names
1157 of liquor being furnished through the full-service restaurant licensee's calibrated metered
1158 dispensing system.

1159 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
1160 shall store an alcoholic product in a storage area described in Subsection (12)(a).

1161 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
1162 licensee's premises shall make a written beverage tab for each table or group that orders or
1163 consumes an alcoholic product on the premises.

1164 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
1165 alcoholic product ordered or consumed.

1166 (5) A person's willingness to serve an alcoholic product may not be made a condition
1167 of employment as a server with a full-service restaurant licensee.

1168 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
1169 the licensed premises on any day during the period that:

1170 (i) begins at midnight; and

1171 (ii) ends at 11:29 a.m.

1172 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
1173 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1174 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before

1175 11:30 a.m. on any day.

1176 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
1177 business from the sale of food, which does not include:

1178 (a) mix for an alcoholic product; or

1179 (b) a service charge.

1180 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
1181 alcoholic product except [~~in connection with an order for~~] to a patron who has indicated an
1182 intent to order food prepared, sold, and furnished at the licensed premises.

1183 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
1184 culinary facilities for food preparation and dining accommodations.

1185 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
1186 more than two alcoholic products of any kind at a time before the patron.

1187 (b) A patron may not have more than one spirituous liquor drink at a time before the
1188 patron.

1189 (c) An individual portion of wine is considered to be one alcoholic product under
1190 Subsection (9)(a).

1191 (10) A patron may consume an alcoholic product only:

1192 (a) at:

1193 (i) the patron's table;

1194 (ii) a counter; or

1195 (iii) a seating grandfathered bar structure; and

1196 (b) where food is served.

1197 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
1198 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1199 structure that is not a seating grandfathered bar structure.

1200 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
1201 may:

1202 (i) sit;

1203 (ii) be furnished an alcoholic product; and

1204 (iii) consume an alcoholic product.

1205 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a

1206 full-service restaurant licensee may not permit a minor to, and a minor may not:
1207 (i) sit; or
1208 (ii) consume food or beverages.
1209 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
1210 by a full-service restaurant licensee:
1211 (A) as provided in Subsection 32B-5-308(2); or
1212 (B) to perform maintenance and cleaning services during an hour when the full-service
1213 restaurant licensee is not open for business.
1214 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
1215 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
1216 premises in which the minor is permitted to be.
1217 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
1218 may dispense an alcoholic product only if:
1219 (a) the alcoholic product is dispensed from:
1220 (i) a grandfathered bar structure;
1221 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
1222 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
1223 12, 2009; or
1224 (iii) an area that is:
1225 (A) separated from an area for the consumption of food by a patron by a solid,
1226 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1227 an alcoholic product are:
1228 (I) not readily visible to a patron; and
1229 (II) not accessible by a patron; and
1230 (B) apart from an area used:
1231 (I) for dining;
1232 (II) for staging; or
1233 (III) as a lobby or waiting area;
1234 (b) the full-service restaurant licensee uses an alcoholic product that is:
1235 (i) stored in an area described in Subsection (12)(a); or
1236 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

1237 (A) immediately before the alcoholic product is dispensed it is in an unopened
1238 container;

1239 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
1240 is opened; and

1241 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

1242 (c) any instrument or equipment used to dispense alcoholic product is located in an
1243 area described in Subsection (12)(a).

1244 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
1245 charge or fee made in connection with the sale, service, or consumption of liquor including:

1246 (a) a set-up charge;

1247 (b) a service charge; or

1248 (c) a chilling fee.

1249 Section 10. Section **32B-6-302** is amended to read:

1250 **32B-6-302. Definitions.**

1251 As used in this part:

1252 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
1253 limited-service restaurant licensee that:

1254 (i) as of May 11, 2009, has:

1255 (A) patron seating at the bar structure;

1256 (B) a partition at one or more locations on the bar structure that is along:

1257 (I) the width of the bar structure; or

1258 (II) the length of the bar structure; and

1259 (C) facilities for the dispensing or storage of an alcoholic product:

1260 (I) on the portion of the bar structure that is separated by the partition described in
1261 Subsection (1)(a)(i)(B); or

1262 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar
1263 structure in a manner visible to a patron sitting at the bar structure;

1264 (ii) is not operational as of May 12, 2009, if:

1265 (A) a person applying for a limited-service restaurant license:

1266 (I) has as of May 12, 2009, a building permit to construct the restaurant;

1267 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

1268 defined by rule made by the commission; and

1269 (III) is issued the limited-service restaurant license by no later than December 31,
1270 2009; and

1271 (B) once constructed, the licensed premises has a bar structure described in Subsection
1272 (1)(a)(i);

1273 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

1274 (iv) is not operational as of May 12, 2009, if:

1275 (A) a person applying for a limited-service restaurant license:

1276 (I) has as of May 12, 2009, a building permit to construct the restaurant;

1277 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

1278 defined by rule made by the commission; and

1279 (III) is issued a limited-service restaurant license by no later than December 31, 2009;

1280 and

1281 (B) once constructed, the licensed premises has a bar structure with no patron seating.

1282 (b) "Grandfathered bar structure" does not include a grandfathered bar structure

1283 described in Subsection (1)(a) on or after the day on which a restaurant remodels the

1284 grandfathered bar structure, as defined by rule made by the commission.

1285 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
1286 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

1287 (2) "Seating grandfathered bar structure" means:

1288 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or

1289 (b) a bar structure grandfathered under Section [~~32B-6-409~~] 32B-6-1006.

1290 (3) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211

1291 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of

1292 wine containing not less than 7% and not more than 24% of alcohol by volume:

1293 (a) sparkling and carbonated wine;

1294 (b) wine made from condensed grape must;

1295 (c) wine made from other agricultural products than the juice of sound, ripe grapes;

1296 (d) imitation wine;

1297 (e) compounds sold as wine;

1298 (f) vermouth;

1299 (g) cider;

1300 (h) perry; and

1301 (i) sake.

1302 Section 11. Section **32B-6-305** is amended to read:

1303 **32B-6-305. Specific operational requirements for a limited-service restaurant**
1304 **license.**

1305 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1306 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
1307 licensee shall comply with this section.

1308 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1309 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1310 (i) a limited-service restaurant licensee;

1311 (ii) individual staff of a limited-service restaurant licensee; or

1312 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
1313 licensee.

1314 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
1315 for sale, furnish, or allow consumption of:

1316 (i) spirituous liquor; or

1317 (ii) a flavored malt beverage.

1318 (b) A product listed in Subsection (2)(a) may not be on the premises of a
1319 limited-service restaurant licensee except for use:

1320 (i) as a flavoring on a dessert; and

1321 (ii) in the preparation of a flaming food dish, drink, or dessert.

1322 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
1323 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

1324 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
1325 licensee's premises shall make a written beverage tab for each table or group that orders or
1326 consumes an alcoholic product on the premises.

1327 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
1328 alcoholic product ordered or consumed.

1329 (5) A person's willingness to serve an alcoholic product may not be made a condition

1330 of employment as a server with a limited-service restaurant licensee.

1331 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
1332 or heavy beer at the licensed premises on any day during the period that:

1333 (i) begins at midnight; and

1334 (ii) ends at 11:29 a.m.

1335 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
1336 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1337 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
1338 before 11:30 a.m. on any day.

1339 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
1340 restaurant business from the sale of food, which does not include a service charge.

1341 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
1342 alcoholic product except [~~in connection with an order for~~] to a patron who has indicated an
1343 intent to order food prepared, sold, and furnished at the licensed premises.

1344 (b) A limited-service restaurant licensee shall maintain on the licensed premises
1345 adequate culinary facilities for food preparation and dining accommodations.

1346 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
1347 more than two alcoholic products of any kind at a time before the patron.

1348 (b) An individual portion of wine is considered to be one alcoholic product under
1349 Subsection (9)(a).

1350 (10) A patron may consume an alcoholic product only:

1351 (a) at:

1352 (i) the patron's table;

1353 (ii) a counter; or

1354 (iii) a seating grandfathered bar structure; and

1355 (b) where food is served.

1356 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
1357 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1358 structure that is not a seating grandfathered bar structure.

1359 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
1360 may:

- 1361 (i) sit;
- 1362 (ii) be furnished an alcoholic product; and
- 1363 (iii) consume an alcoholic product.
- 1364 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 1365 limited-service restaurant licensee may not permit a minor to, and a minor may not:
- 1366 (i) sit; or
- 1367 (ii) consume food or beverages.
- 1368 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
- 1369 by a limited-service restaurant licensee:
- 1370 (A) as provided in Subsection 32B-5-308(2); or
- 1371 (B) to perform maintenance and cleaning services during an hour when the
- 1372 limited-service restaurant licensee is not open for business.
- 1373 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 1374 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
- 1375 licensee's premises in which the minor is permitted to be.
- 1376 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
- 1377 licensee may dispense an alcoholic product only if:
- 1378 (a) the alcoholic product is dispensed from:
- 1379 (i) a grandfathered bar structure;
- 1380 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
- 1381 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
- 1382 12, 2009; or
- 1383 (iii) an area that is:
- 1384 (A) separated from an area for the consumption of food by a patron by a solid,
- 1385 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
- 1386 an alcoholic product are:
- 1387 (I) not readily visible to a patron; and
- 1388 (II) not accessible by a patron; and
- 1389 (B) apart from an area used:
- 1390 (I) for dining;
- 1391 (II) for staging; or

- 1392 (III) as a lobby or waiting area;
- 1393 (b) the limited-service restaurant licensee uses an alcoholic product that is:
- 1394 (i) stored in an area described in Subsection (12)(a); or
- 1395 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 1396 (A) immediately before the alcoholic product is dispensed it is in an unopened
- 1397 container;
- 1398 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
- 1399 is opened; and
- 1400 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
- 1401 (c) any instrument or equipment used to dispense alcoholic product is located in an
- 1402 area described in Subsection (12)(a).
- 1403 (13) A limited-service restaurant licensee may state in a food or alcoholic product
- 1404 menu a charge or fee made in connection with the sale, service, or consumption of wine or
- 1405 heavy beer including:
- 1406 (a) a set-up charge;
- 1407 (b) a service charge; or
- 1408 (c) a chilling fee.
- 1409 Section 12. Section **32B-6-403** is amended to read:
- 1410 **32B-6-403. Commission's power to issue club license.**
- 1411 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
- 1412 an alcoholic product on its premises as a club licensee, the person shall first obtain a club
- 1413 license from the commission in accordance with this part.
- 1414 (2) The commission may issue a club license to establish club licensed premises at
- 1415 places and in numbers the commission considers proper for the storage, sale, offer for sale,
- 1416 furnishing, and consumption of an alcoholic product on premises operated by a club licensee.
- 1417 (3) Subject to Section 32B-1-201:
- 1418 (a) The commission may not issue a total number of club licenses that at any time
- 1419 exceeds the number determined by dividing the population of the state by ~~[7,850]~~ 9,764.
- 1420 (b) The commission may issue a seasonal club license in accordance with Section
- 1421 32B-5-206 to~~[(i) a dining club licensee; or (ii)]~~ a social club licensee.
- 1422 (c) (i) If the location, design, and construction of a hotel may require more than one

1423 [~~dining club license or~~] social club license location within the hotel to serve the public
1424 convenience, the commission may authorize as many as three club license locations within the
1425 hotel under one club license if:

1426 (A) the hotel has a minimum of 150 guest rooms; and

1427 (B) all locations under the club license are:

1428 (I) within the same hotel; and

1429 (II) on premises that are managed or operated, and owned or leased, by the club
1430 licensee.

1431 (ii) A facility other than a hotel shall have a separate club license for each club license
1432 location where an alcoholic product is sold, offered for sale, or furnished.

1433 (d) When a business establishment undergoes a change of ownership, the commission
1434 may issue a club license to the new owner of the business establishment notwithstanding that
1435 there is no club license available under Subsection (3)(a) if:

1436 (i) the primary business activity at the business establishment before and after the
1437 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

1438 (ii) before the change of ownership there are two or more licensed premises on the
1439 business establishment that operate under a retail license, with at least one of the retail licenses
1440 being a club license;

1441 (iii) subject to Subsection (3)(e), the licensed premises of the club license issued under
1442 this Subsection (3)(d) is at the same location where the club license licensed premises was
1443 located before the change of ownership; and

1444 (iv) the person who is the new owner of the business establishment qualifies for the
1445 club license, except for there being no club license available under Subsection (3)(a).

1446 (e) If a club licensee of a club license issued under Subsection (3)(d) requests a change
1447 of location, the club licensee may retain the club license after the change of location only if on
1448 the day on which the club licensee seeks a change of location a club license is available under
1449 Subsection (3)(a).

1450 Section 13. Section **32B-6-404** is amended to read:

1451 **32B-6-404. Types of club license.**

1452 (1) To obtain an equity club license, in addition to meeting the other requirements of
1453 this part, a person shall:

- 1454 (a) whether incorporated or unincorporated:
- 1455 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
- 1456 purpose;
- 1457 (ii) have members;
- 1458 (iii) limit access to its licensed premises to a member or a guest of the member; and
- 1459 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
- 1460 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
- 1461 (b) own, maintain, or operate a substantial recreational facility in conjunction with a
- 1462 club house such as:
- 1463 (i) a golf course; or
- 1464 (ii) a tennis facility;
- 1465 (c) have at least 50% of the total membership having:
- 1466 (i) full voting rights; and
- 1467 (ii) an equal share of the equity of the club; and
- 1468 (d) if there is more than one class of membership, have at least one class of
- 1469 membership that entitles each member in that class to:
- 1470 (i) full voting rights; and
- 1471 (ii) an equal share of the equity of the club.
- 1472 (2) To obtain a fraternal club license, in addition to meeting the other requirements of
- 1473 this part, a person shall:
- 1474 (a) whether incorporated or unincorporated:
- 1475 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
- 1476 purpose;
- 1477 (ii) have members;
- 1478 (iii) limit access to its licensed premises to a member or a guest of the member; and
- 1479 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
- 1480 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
- 1481 (b) have no capital stock;
- 1482 (c) exist solely for:
- 1483 (i) the benefit of its members and their beneficiaries; and
- 1484 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,

1485 patriotic, or religious purpose for the benefit of its members or the public, carried on through
1486 voluntary activity of its members in their local lodges;

1487 (d) have a representative form of government;

1488 (e) have a lodge system in which:

1489 (i) there is a supreme governing body;

1490 (ii) subordinate to the supreme governing body are local lodges, however designated,
1491 into which individuals are admitted as members in accordance with the laws of the fraternal;

1492 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at
1493 least monthly; and

1494 (iv) the local lodges regularly engage in one or more programs involving member
1495 participation to implement the purposes of Subsection (2)(c); and

1496 (f) own or lease a building or space in a building used for lodge activities.

1497 ~~[(3) To obtain a dining club license, in addition to meeting the other requirements of~~
1498 ~~this part, a person shall:]~~

1499 ~~[(a) maintain at least the following percentages of its total club business from the sale~~
1500 ~~of food, not including mix for alcoholic products, or service charges:]~~

1501 ~~[(i) for a dining club license that is issued an original license on or after July 1, 2011,~~
1502 ~~60%; and]~~

1503 ~~[(ii) for a dining club license that is issued on or before June 30, 2011:]~~

1504 ~~[(A) 50% on or before June 30, 2012; and]~~

1505 ~~[(B) 60% on and after July 1, 2012; and]~~

1506 ~~[(b) obtain a determination by the commission that the person will operate as a dining~~
1507 ~~club licensee, as part of which the commission may consider:]~~

1508 ~~[(i) the square footage and seating capacity of the premises;]~~

1509 ~~[(ii) what portion of the square footage and seating capacity will be used for a dining~~
1510 ~~area in comparison to the portion that will be used as a lounge or bar area;]~~

1511 ~~[(iii) whether full meals including appetizers, main courses, and desserts are served;]~~

1512 ~~[(iv) whether the person will maintain adequate on-premise culinary facilities to~~
1513 ~~prepare full meals, except a person who is located on the premise of a hotel or resort facility~~
1514 ~~may use the culinary facilities of the hotel or resort facility;]~~

1515 ~~[(v) whether the entertainment provided at the club is suitable for minors; and]~~

1516 [~~(vi) the club management's ability to manage and operate a dining club license~~
 1517 ~~including:~~]

1518 [~~(A) management experience;~~]

1519 [~~(B) past dining club licensee or restaurant management experience; and]~~

1520 [~~(C) the type of management scheme used by the dining club license.]~~

1521 [~~(4)~~] (3) To obtain a social club license, a person is required to meet the requirements
 1522 of this part except those listed in Subsection (1)[,] or (2)[, ~~or (3)~~].

1523 [~~(5)~~] (4) (a) At the time that the commission issues a club license, the commission shall
 1524 designate the type of club license for which the person qualifies.

1525 (b) If requested by a club licensee, the commission may approve a change in the type of
 1526 club license in accordance with rules made by the commission.

1527 [~~(6)~~] (5) To the extent not prohibited by law, this part does not prevent a [~~dining club~~
 1528 ~~licensee or~~] social club licensee from restricting access to the club's licensed premises on the
 1529 basis of an individual:

1530 (a) paying a fee; or

1531 (b) agreeing to being on a list of individuals who have access to the club's licensed
 1532 premises.

1533 Section 14. Section **32B-6-405** is amended to read:

1534 **32B-6-405. Specific licensing requirements for club license.**

1535 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail
 1536 Licensing Process, a person shall submit with the written application:

1537 (a) (i) a statement as to whether the person is seeking to qualify as:

1538 (A) an equity club licensee;

1539 (B) a fraternal club licensee; or

1540 [~~(C) a dining club licensee; or]~~

1541 [~~(D)~~] (C) a social club licensee; and

1542 (ii) evidence that the person meets the requirements for the type of club license for
 1543 which the person is applying;

1544 (b) evidence that the person operates club premises where a variety of food is prepared
 1545 and served in connection with dining accommodations; and

1546 (c) if the person is applying for an equity club license or fraternal club license, a copy

1547 of the club's bylaws or house rules, and an amendment to those records.

1548 (2) The commission may refuse to issue a club license to a person for an equity club
1549 license or fraternal club license if the commission determines that a provision of the person's
1550 bylaws or house rules, or amendments to those records is not:

1551 (a) reasonable; and

1552 (b) consistent with:

1553 (i) the declared nature and purpose of the club licensee; and

1554 (ii) the purposes of this part.

1555 (3) (a) A club license expires on June 30 of each year.

1556 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,
1557 Part 2, Retail Licensing Process, by no later than May 31.

1558 (4) (a) The nonrefundable application fee for a club license is \$300.

1559 (b) The initial license fee for a club license is \$2,750.

1560 (c) The renewal fee for a club license is \$2,000.

1561 (5) The bond amount required for a club license is the penal sum of \$10,000.

1562 Section 15. Section **32B-6-406** is amended to read:

1563 **32B-6-406. Specific operational requirements for a club license.**

1564 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1565 Requirements, a club licensee and staff of the club licensee shall comply with this section.

1566 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1567 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1568 (i) a club licensee;

1569 (ii) individual staff of a club licensee; or

1570 (iii) both a club licensee and staff of the club licensee.

1571 (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall
1572 display in a prominent place in the club licensed premises a list of the types and brand names of
1573 liquor being furnished through the club licensee's calibrated metered dispensing system.

1574 (3) (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain
1575 for a minimum of three years:

1576 (i) a record required by Section 32B-5-302; and

1577 (ii) a record maintained or used by the club licensee, as the department requires.

1578 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in
1579 accordance with this Subsection (3).

1580 (c) The department shall audit the records of a club licensee at least once annually.

1581 (4) (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed
1582 premises on any day during a period that:

1583 (i) begins at 1 a.m.; and

1584 (ii) ends at 9:59 a.m.

1585 (b) A club licensee may sell, offer for sale, or furnish beer during the hours specified in
1586 Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

1587 (c) (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its
1588 licensed premises open for one hour after the club licensee ceases the sale and furnishing of an
1589 alcoholic product during which time a patron of the club licensee may finish consuming:

1590 (A) a single drink containing spirituous liquor;

1591 (B) a single serving of wine not exceeding five ounces;

1592 (C) a single serving of heavy beer;

1593 (D) a single serving of beer not exceeding 26 ounces; or

1594 (E) a single serving of a flavored malt beverage.

1595 (ii) A club licensee is not required to remain open:

1596 (A) after all patrons have vacated the premises; or

1597 (B) during an emergency.

1598 (5) (a) A minor may not be admitted into, use, or be in:

1599 (i) a lounge or bar area of the premises of:

1600 (A) an equity club licensee; or

1601 (B) a fraternal club licensee; or

1602 [~~(C) a dining club licensee; or~~]

1603 (ii) the premises of [~~:(A) a dining club licensee unless accompanied by an individual~~
1604 ~~who is 21 years of age or older; or (B)] a social club licensee, except to the extent provided for~~
1605 under Section 32B-6-406.1.

1606 (b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:

1607 (i) work in a lounge or bar area of an equity club licensee[;] or fraternal club licensee[;
1608 ~~or dining club licensee~~]; or

1609 (ii) handle an alcoholic product.

1610 (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed
1611 premises of a social club licensee.

1612 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
1613 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
1614 club licensee.

1615 (6) A club licensee shall have food available at all times when an alcoholic product is
1616 sold, offered for sale, furnished, or consumed on the licensed premises.

1617 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
1618 more than two alcoholic products of any kind at a time before the patron.

1619 (b) A patron may not have two spirituous liquor drinks before the club licensee patron
1620 if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other
1621 spirituous liquor drink.

1622 (c) An individual portion of wine is considered to be one alcoholic product under
1623 Subsection (7)(a).

1624 (8) A club licensee shall have available on the premises for a patron to review at the
1625 time that the patron requests it, a written alcoholic product price list or a menu containing the
1626 price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:

1627 (a) a set-up charge;

1628 (b) a service charge; or

1629 (c) a chilling fee.

1630 (9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or
1631 otherwise temporarily lease its premises to a person unless:

1632 (a) the person to whom the club licensee rents or leases the premises agrees in writing
1633 to comply with this title as if the person is the club licensee, except for a requirement related to
1634 making or maintaining a record; and

1635 (b) the club licensee takes reasonable steps to ensure that the person complies with this
1636 section as provided in Subsection (9)(a).

1637 (10) If a club licensee is an equity club licensee or fraternal club licensee, the club
1638 licensee shall comply with Section 32B-6-407.

1639 (11) If a club licensee is a [~~dining club licensee or~~] social club licensee, the club

1640 licensee shall comply with Section 32B-1-407.

1641 (12) (a) A club licensee shall own or lease premises suitable for the club licensee's
1642 activities.

1643 (b) A club licensee may not maintain licensed premises in a manner that barricades or
1644 conceals the club licensee's operation.

1645 Section 16. Section **32B-6-407** is amended to read:

1646 **32B-6-407. Specific operational requirements for equity club license or fraternal**
1647 **club license.**

1648 (1) For purposes of this section only:

1649 (a) "Club licensee" means an equity club licensee or fraternal club licensee.

1650 (b) "Club licensee" does not include a [~~dining club licensee or~~] social club licensee.

1651 (2) (a) A club licensee shall have a governing body that:

1652 (i) consists of three or more members of the club; and

1653 (ii) holds regular meetings to:

1654 (A) review membership applications; and

1655 (B) conduct other business as required by the bylaws or house rules of the club.

1656 (b) (i) A club licensee shall maintain a minute book that is posted currently by the club
1657 licensee.

1658 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
1659 regular or special meeting of the governing body.

1660 (3) A club licensee may admit an individual as a member only on written application
1661 signed by the person, subject to:

1662 (a) the person paying an application fee; and

1663 (b) investigation, vote, and approval of a quorum of the governing body.

1664 (4) A club licensee shall:

1665 (a) record an admission of a member in the official minutes of a regular meeting of the
1666 governing body; and

1667 (b) whether approved or disapproved, file an application as a part of the official records
1668 of the club licensee.

1669 (5) The spouse of a member of a club licensee has the rights and privileges of the
1670 member:

- 1671 (a) to the extent permitted by the bylaws or house rules of the club licensee; and
- 1672 (b) except to the extent restricted by this title.
- 1673 (6) A minor child of a member of a club licensee has the rights and privileges of the
- 1674 member:
- 1675 (a) to the extent permitted by the bylaws or house rules of the club licensee; and
- 1676 (b) except to the extent restricted by this title.
- 1677 (7) A club licensee shall maintain:
- 1678 (a) a current and complete membership record showing:
- 1679 (i) the date of application of a proposed member;
- 1680 (ii) a member's address;
- 1681 (iii) the date the governing body approved a member's admission;
- 1682 (iv) the date initiation fees and dues are assessed and paid; and
- 1683 (v) the serial number of the membership card issued to a member;
- 1684 (b) a membership list; and
- 1685 (c) a current record indicating when a member is removed as a member or resigns.
- 1686 (8) (a) A club licensee shall have bylaws or house rules that include provisions
- 1687 respecting the following:
- 1688 (i) standards of eligibility for members;
- 1689 (ii) limitation of members, consistent with the nature and purpose of the club;
- 1690 (iii) the period for which dues are paid, and the date upon which the period expires;
- 1691 (iv) provisions for removing a member from the club membership for the nonpayment
- 1692 of dues or other cause;
- 1693 (v) provisions for guests; and
- 1694 (vi) application fees and membership dues.
- 1695 (b) A club licensee shall maintain a current copy of the club licensee's current bylaws
- 1696 and current house rules.
- 1697 (c) A club licensee shall maintain its bylaws or house rules, and any amendments to
- 1698 those records, on file with the department at all times.
- 1699 (9) A club licensee may, in its discretion, allow an individual to be admitted to or use
- 1700 the club licensed premises as a guest subject to the following conditions:
- 1701 (a) the individual is allowed to use the club licensee premises only to the extent

1702 permitted by the club licensee's bylaws or house rules;

1703 (b) the individual shall be previously authorized by a member of the club who agrees to
1704 host the individual as a guest into the club;

1705 (c) the individual has only those privileges derived from the individual's host for the
1706 duration of the individual's visit to the club licensee premises; and

1707 (d) a club licensee or staff of the club licensee may not enter into an agreement or
1708 arrangement with a club member to indiscriminately host a member of the general public into
1709 the club licensee premises as a guest.

1710 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club
1711 licensed premises without a host if:

1712 (a) (i) the club licensee is an equity club licensee; and

1713 (ii) the individual is a member of an equity club licensee that has reciprocal guest
1714 privileges with the equity club licensee for which the individual is a guest; ~~[or]~~

1715 (b) (i) the club licensee is a fraternal club licensee; and

1716 (ii) the individual is a member of the same fraternal organization as the fraternal club
1717 licensee for which the individual is a guest~~[-]; or~~

1718 (c) (i) the club licensee is a fraternal club licensee that holds the fraternal club license
1719 on July 1, 2013; and

1720 (ii) its bylaws permit guests in the club licensed premises without a host except that a
1721 minor may not be admitted as a guest without a host.

1722 (11) Unless the patron is a member or guest, a club licensee may not:

1723 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

1724 (b) allow the patron to be admitted to or use the licensed premises.

1725 (12) A minor may not be a member, officer, director, or trustee of a club licensee.

1726 ~~[(13) Public advertising related to a club licensee by the following shall clearly identify~~
1727 ~~a club as being "a club for members":]~~

1728 ~~[(a) the club licensee;]~~

1729 ~~[(b) staff of the club licensee; or]~~

1730 ~~[(c) a person under a contract or agreement with the club licensee.]~~

1731 Section 17. Section **32B-6-803** is amended to read:

1732 **32B-6-803. Commission's power to issue reception center license.**

1733 (1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its
1734 premises as a reception center, the person shall first obtain a reception center license from the
1735 commission in accordance with this part.

1736 (2) The commission may issue a reception center license to establish reception center
1737 licensed premises at places and in numbers the commission considers proper for the storage,
1738 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated
1739 as a reception center.

1740 (3) Subject to Section 32B-1-201, the commission may not issue a total number of
1741 reception center licenses that at any time exceeds the number determined by dividing the
1742 population of the state by [~~56,313~~] 116,192.

1743 (4) The commission may not issue a reception center license for premises that do not
1744 meet the proximity requirements of Section 32B-1-202.

1745 Section 18. Section **32B-6-902** is amended to read:

1746 **32B-6-902. Definitions.**

1747 (1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a
1748 licensed premises of a beer-only restaurant licensee that:

1749 (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
1750 1, 2011:

1751 (A) is operational;

1752 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
1753 the requirements of Subsection 32B-6-905(12)(a)(ii); and

1754 (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that
1755 effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a
1756 beer-only restaurant; or

1757 (ii) is a bar structure grandfathered under Section [~~32B-6-409~~] 32B-6-1006.

1758 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
1759 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
1760 grandfathered bar structure, as defined by rule made by the commission.

1761 (2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
1762 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

1763 Section 19. Section **32B-6-905** is amended to read:

1764 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

1765 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1766 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
1767 shall comply with this section.

1768 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1769 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1770 (i) a beer-only restaurant licensee;
- 1771 (ii) individual staff of a beer-only restaurant licensee; or
- 1772 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

1773 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
1774 sale, furnish, or allow consumption of liquor.

1775 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- 1776 (i) as a flavoring on a dessert; and
- 1777 (ii) in the preparation of a flaming food dish, drink, or dessert.

1778 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
1779 shall store beer in a storage area described in Subsection (12)(a).

1780 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
1781 make a written beverage tab for each table or group that orders or consumes an alcoholic
1782 product on the premises.

1783 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
1784 beer ordered or consumed.

1785 (5) A person's willingness to serve beer may not be made a condition of employment as
1786 a server with a beer-only restaurant licensee.

1787 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
1788 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
1789 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1790 11:30 a.m. on any day.

1791 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
1792 business from the sale of food, which does not include a service charge.

1793 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except ~~in~~
1794 connection with an order for to a patron who has indicated an intent to order food prepared,

1795 sold, and furnished at the licensed premises.

1796 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1797 facilities for food preparation and dining accommodations.

1798 (9) A patron may not have more than two beers at a time before the patron.

1799 (10) A patron may consume a beer only:

1800 (a) at:

1801 (i) the patron's table;

1802 (ii) a grandfathered bar structure; or

1803 (iii) a counter; and

1804 (b) where food is served.

1805 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
1806 a patron, and a patron may not consume an alcoholic product at a bar structure.

1807 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
1808 is 21 years of age or older may:

1809 (i) sit;

1810 (ii) be furnished a beer; and

1811 (iii) consume a beer.

1812 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
1813 beer-only restaurant licensee may not permit a minor to, and a minor may not:

1814 (i) sit; or

1815 (ii) consume food or beverages.

1816 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
1817 beer-only restaurant licensee:

1818 (A) as provided in Subsection 32B-5-308(2); or

1819 (B) to perform maintenance and cleaning services during an hour when the beer-only
1820 restaurant licensee is not open for business.

1821 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining
1822 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in
1823 which the minor is permitted to be.

1824 (12) A beer-only restaurant licensee may dispense a beer only if:

1825 (a) the beer is dispensed from an area that is:

- 1826 (i) a grandfathered bar structure; or
- 1827 (ii) separated from an area for the consumption of food by a patron by a solid,
- 1828 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
- 1829 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
- 1830 from an area used for dining, for staging, or as a lobby or waiting area;
- 1831 (b) the beer-only restaurant licensee uses a beer that is:
- 1832 (i) stored in an area described in Subsection (12)(a); or
- 1833 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 1834 (A) immediately before the beer is dispensed it is in an unopened container;
- 1835 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
- 1836 is opened; and
- 1837 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
- 1838 (c) any instrument or equipment used to dispense the beer is located in an area
- 1839 described in Subsection (12)(a).

1840 Section 20. Section **32B-6-1001** is enacted to read:

1841 **Part 10. Dining License**

1842 **32B-6-1001. Title.**

1843 This part is known as "Dining License."

1844 Section 21. Section **32B-6-1002** is enacted to read:

1845 **32B-6-1002. Definitions.**

1846 Reserved.

1847 Section 22. Section **32B-6-1003** is enacted to read:

1848 **32B-6-1003. Commission's power to issue dining license.**

1849 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
1850 an alcoholic product on its premises as a dining licensee, the person shall first obtain a dining
1851 license from the commission in accordance with this part.

1852 (2) The commission may issue a dining license to establish dining-licensed premises at
1853 places and in numbers the commission considers proper for the storage, sale, offer for sale,
1854 furnishing, and consumption of an alcoholic product on premises operated as a dining
1855 establishment.

1856 (3) Subject to Section 32B-1-201:

1857 (a) The commission may not issue a total number of dining licenses that at any time
1858 exceeds the number determined by dividing the population of the state by 29,490.

1859 (b) The commission may issue a seasonal dining license in accordance with Section
1860 32B-5-206.

1861 (c) (i) If the location, design, and construction of a hotel may require more than one
1862 dining license sales locations within the hotel to serve the public convenience, the commission
1863 may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three
1864 dining establishments within the hotel under one dining license if:

1865 (A) the hotel has a minimum of 150 guest rooms; and

1866 (B) the locations under the dining license are within the same hotel, and on premises
1867 that are managed or operated, and owned or leased, by the dining licensee.

1868 (ii) A facility other than a hotel shall have a separate dining license for each dining
1869 establishment where an alcoholic product is sold, offered for sale, or furnished.

1870 (d) When a business establishment undergoes a change of ownership, the commission
1871 may issue a dining license to the new owner of the business establishment notwithstanding that
1872 there is no dining license available under Subsection (3)(a) if:

1873 (i) the primary business activity at the business establishment before and after the
1874 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

1875 (ii) before the change of ownership there are two or more licensed premises on the
1876 business establishment that operate under a retail license, with at least one of the retail licenses
1877 being a dining license;

1878 (iii) subject to Subsection (3)(e), the licensed premises of the dining license issued
1879 under this Subsection (3)(d) is at the same location where the dining license licensed premises
1880 was located before the change of ownership; and

1881 (iv) the person who is the new owner of the business establishment qualifies for the
1882 dining license, except for there being no dining license available under Subsection (3)(a).

1883 (e) If a dining licensee of a dining license issued under Subsection (3)(d) requests a
1884 change of location, the dining licensee may retain the dining license after the change of
1885 location only if on the day on which the dining licensee seeks a change of location, a dining
1886 license is available under Subsection (3)(a).

1887 (4) The commission may not issue a dining license for premises that do not meet the

1888 proximity requirements of Section 32B-1-202.

1889 (5) To obtain a dining license, in addition to meeting the other requirements of this
1890 part, a person shall:

1891 (a) maintain at least 60% of its total dining establishment from the sale of food, not
1892 including mix for alcoholic products, or service charges; and

1893 (b) obtain a determination by the commission that the person will operate as a dining
1894 licensee, as part of which the commission may consider:

1895 (i) the square footage and seating capacity of the premises;

1896 (ii) what portion of the square footage and seating capacity will be used for a dining
1897 area in comparison to the portion that will be used as a lounge or bar area;

1898 (iii) whether full meals, including appetizers, main courses, and desserts, are served;

1899 (iv) whether the person will maintain adequate on-premise culinary facilities to prepare
1900 full meals, except a person who is located on the premises of a hotel or resort facility may use
1901 the culinary facilities of the hotel or resort facility;

1902 (v) whether the entertainment provided at the establishment is suitable for minors; and

1903 (vi) the establishment's management's ability to manage and operate a dining license
1904 including:

1905 (A) management experience;

1906 (B) past dining licensee or restaurant management experience; and

1907 (C) the type of management scheme used by the dining licensee.

1908 (6) A dining club license issued as of June 30, 2013, is automatically converted to a
1909 dining license under this part, effective July 1, 2013.

1910 Section 23. Section **32B-6-1004** is enacted to read:

1911 **32B-6-1004. Specific licensing requirements for dining license.**

1912 (1) To obtain a dining license, in addition to complying with Chapter 5, Part 2, Retail
1913 Licensing Process, a person shall submit with the written application:

1914 (a) (i) a statement that the person is seeking to qualify as a dining licensee; and

1915 (ii) evidence that the person meets the requirements for the dining license; and

1916 (b) evidence that the person operates a dining establishment where a variety of food is
1917 prepared and served in connection with dining accommodations.

1918 (2) (a) A dining license expires on June 30 of each year.

1919 (b) To renew a dining license, a person shall comply with the requirements of Chapter
1920 5, Part 2, Retail Licensing Process, by no later than May 31.

1921 (3) (a) The nonrefundable application fee for a dining license is \$300.

1922 (b) The initial license fee for a dining license is \$2,750.

1923 (c) The renewal fee for a dining license is \$2,000.

1924 (4) The bond amount required for a dining license is the penal sum of \$10,000.

1925 Section 24. Section **32B-6-1005** is enacted to read:

1926 **32B-6-1005. Specific operational requirements for a dining license.**

1927 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1928 Requirements, a dining licensee and staff of the dining licensee shall comply with this section.

1929 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1930 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1931 (i) a dining licensee;

1932 (ii) individual staff of a dining licensee; or

1933 (iii) both a dining licensee and staff of the dining licensee.

1934 (2) In addition to complying with Subsection 32B-5-301(3), a dining licensee shall
1935 display in a prominent place in the dining establishment a list of the types and brand names of
1936 liquor being furnished through the dining licensee's calibrated metered dispensing system.

1937 (3) (a) In addition to complying with Section 32B-5-302, a dining licensee shall
1938 maintain for a minimum of three years:

1939 (i) a record required by Section 32B-5-302; and

1940 (ii) a record maintained or used by the dining licensee, as the department requires.

1941 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in
1942 accordance with this Subsection (3).

1943 (c) The department shall audit the records of a dining licensee at least once annually.

1944 (4) (a) A dining licensee may not sell, offer for sale, or furnish liquor on the licensed
1945 premises on any day during a period that:

1946 (i) begins at 1 a.m.; and

1947 (ii) ends at 9:59 a.m.

1948 (b) A dining licensee may sell, offer for sale, or furnish beer during the hours specified
1949 in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

1950 (c) (i) Notwithstanding Subsections (4)(a) and (b), a dining licensee shall keep its
1951 licensed premises open for one hour after the dining licensee ceases the sale and furnishing of
1952 an alcoholic product during which time a patron of the club licensee may finish consuming:
1953 (A) a single drink containing spirituous liquor;
1954 (B) a single serving of wine not exceeding five ounces;
1955 (C) a single serving of heavy beer;
1956 (D) a single serving of beer not exceeding 26 ounces; or
1957 (E) a single serving of a flavored malt beverage.
1958 (ii) A dining licensee is not required to remain open:
1959 (A) after all patrons have vacated the premises; or
1960 (B) during an emergency.
1961 (5) (a) A minor may not be admitted into, use, or be in a lounge or bar area of the
1962 premises of a dining licensee. A minor may not be admitted into, use, or be on the premises of
1963 a dining licensee unless accompanied by an individual who is 21 years of age or older.
1964 (b) Notwithstanding Section 32B-5-308, a dining licensee may not employ a minor to:
1965 (i) work in a lounge or bar area of a dining licensee; or
1966 (ii) handle an alcoholic product.
1967 (c) Nothing in this part or Section 32B-5-308 precludes a local authority from being
1968 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
1969 dining licensee.
1970 (6) A dining licensee shall have food available at all times when an alcoholic product is
1971 sold, offered for sale, furnished, or consumed on the licensed premises.
1972 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
1973 more than two alcoholic products of any kind at a time before the patron.
1974 (b) A patron may not have two spirituous liquor drinks before the patron if one of the
1975 spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous
1976 liquor drink.
1977 (c) An individual portion of wine is considered to be one alcoholic product under
1978 Subsection (7)(a).
1979 (8) A dining licensee shall have available on the premises for a patron to review, at the
1980 time that the patron requests it, a written alcoholic product price list or a menu containing the

1981 price of an alcoholic product sold, offered for sale, or furnished by the dining licensee
1982 including:
1983 (a) a set-up charge;
1984 (b) a service charge; or
1985 (c) a chilling fee.
1986 (9) Subject to Section 32B-5-309, a dining licensee may not temporarily rent or
1987 otherwise temporarily lease its premises to a person unless:
1988 (a) the person to whom the dining licensee rents or leases the premises agrees in
1989 writing to comply with this title as if the person is the dining licensee, except for a requirement
1990 related to making or maintaining a record; and
1991 (b) the dining licensee takes reasonable steps to ensure that the person complies with
1992 this section as provided in Subsection (9)(a).
1993 (10) A dining licensee shall comply with Section 32B-1-407.
1994 (11) (a) A dining licensee shall own or lease premises suitable for the dining licensee's
1995 activities.
1996 (b) A dining licensee may not maintain licensed premises in a manner that barricades
1997 or conceals the dining licensee's operation.
1998 Section 25. Section **32B-6-1006** is enacted to read:
1999 **32B-6-1006. Conversion from dining license to different type of retail license.**
2000 (1) In accordance with this section, a dining licensee may convert its dining license to a
2001 different type of retail license during the time period:
2002 (a) beginning on July 1, 2013; and
2003 (b) ending on June 30, 2014.
2004 (2) A dining licensee may convert its dining license only to a retail license for which
2005 the dining licensee qualifies.
2006 (3) The commission shall provide a procedure for a dining licensee to convert its
2007 dining license to a different type of retail license as provided in this section by rule made in
2008 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
2009 (4) After a dining license is converted to another type of retail license, the retail
2010 licensee shall operate under the provisions relevant to the type of retail license held by the retail
2011 licensee, except that, in accordance with Section 32B-1-201, the retail license is not considered

2012 in determining the total number of licenses available for that type of retail license.
2013 (5) If a dining license is converted to a full-service restaurant license, limited-service
2014 restaurant license, or beer-only restaurant license, the bar structure of the dining club is
2015 considered:
2016 (a) a seating grandfathered bar structure for purposes of a full-service restaurant license
2017 or a limited-service restaurant license; or
2018 (b) a grandfathered bar structure for purposes of a beer-only restaurant license.
2019 **Section 26. Repealer.**
2020 This bill repeals:
2021 **Section 32B-6-409, Conversion from dining club license to different type of retail**
2022 **license.**
2023 **Section 27. Effective date.**
2024 This bill takes effect on July 1, 2013.

Legislative Review Note
as of 2-1-13 6:14 PM

Office of Legislative Research and General Counsel