

ALCOHOL SERVICE IN RESTAURANTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address when a restaurant may sell, offer for sale, or furnish an alcoholic product.

Highlighted Provisions:

This bill:

- ▶ modifies the language related to a restaurant licensee confirming that a patron has the intent to order food as a condition of receiving an alcoholic product; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

H→ [None] This bill coordinates with H.B. 218, Alcohol Amendments, to provide for superseding amendments. ←H

Utah Code Sections Affected:

AMENDS:

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

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

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

H→ Utah Code Sections Affected by Coordination Clause:

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

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

32B-6-905, as enacted by Laws of Utah 2011, Chapter 334 ←H

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

Section 1. Section **32B-6-205** is amended to read:



28 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

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

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

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

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

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

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

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

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

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

- 53 (i) begins at midnight; and
- 54 (ii) ends at 11:29 a.m.

55 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
56 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
57 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
58 11:30 a.m. on any day.

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

- 61 (a) mix for an alcoholic product; or
- 62 (b) a service charge.

63 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
64 alcoholic product except [~~in connection with an order for~~] after the full-service restaurant
65 licensee confirms that the patron has the intent to order food prepared, sold, and furnished at
66 the licensed premises.

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

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

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

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

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

- 76 (a) at:
 - 77 (i) the patron's table;
 - 78 (ii) a counter; or
 - 79 (iii) a seating grandfathered bar structure; and
- 80 (b) where food is served.

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

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

- 86 (i) sit;
- 87 (ii) be furnished an alcoholic product; and
- 88 (iii) consume an alcoholic product.

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

90 full-service restaurant licensee may not permit a minor to, and a minor may not:

91 (i) sit; or

92 (ii) consume food or beverages.

93 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed

94 by a full-service restaurant licensee:

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

96 (B) to perform maintenance and cleaning services during an hour when the full-service
97 restaurant licensee is not open for business.

98 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
99 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
100 premises in which the minor is permitted to be.

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

103 (a) the alcoholic product is dispensed from:

104 (i) a grandfathered bar structure;

105 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
106 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
107 12, 2009; or

108 (iii) an area that is:

109 (A) separated from an area for the consumption of food by a patron by a solid,
110 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
111 an alcoholic product are:

112 (I) not readily visible to a patron; and

113 (II) not accessible by a patron; and

114 (B) apart from an area used:

115 (I) for dining;

116 (II) for staging; or

117 (III) as a lobby or waiting area;

118 (b) the full-service restaurant licensee uses an alcoholic product that is:

119 (i) stored in an area described in Subsection (12)(a); or

120 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

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

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

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

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

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

130 (a) a set-up charge;

131 (b) a service charge; or

132 (c) a chilling fee.

133 Section 2. Section **32B-6-305** is amended to read:

134 **32B-6-305. Specific operational requirements for a limited-service restaurant**
135 **license.**

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

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

141 (i) a limited-service restaurant licensee;

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

143 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
144 licensee.

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

147 (i) spirituous liquor; or

148 (ii) a flavored malt beverage.

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

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

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

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

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

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

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

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

164 (i) begins at midnight; and

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

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

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

172 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
173 alcoholic product except [~~in connection with an order for~~] after the limited-service restaurant
174 licensee confirms that the patron has the intent to order food prepared, sold, and furnished at
175 the licensed premises.

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

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

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

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

183 (a) at:
184 (i) the patron's table;
185 (ii) a counter; or
186 (iii) a seating grandfathered bar structure; and
187 (b) where food is served.
188 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
189 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
190 structure that is not a seating grandfathered bar structure.
191 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
192 may:
193 (i) sit;
194 (ii) be furnished an alcoholic product; and
195 (iii) consume an alcoholic product.
196 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
197 limited-service restaurant licensee may not permit a minor to, and a minor may not:
198 (i) sit; or
199 (ii) consume food or beverages.
200 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
201 by a limited-service restaurant licensee:
202 (A) as provided in Subsection 32B-5-308(2); or
203 (B) to perform maintenance and cleaning services during an hour when the
204 limited-service restaurant licensee is not open for business.
205 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
206 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
207 licensee's premises in which the minor is permitted to be.
208 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
209 licensee may dispense an alcoholic product only if:
210 (a) the alcoholic product is dispensed from:
211 (i) a grandfathered bar structure;
212 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
213 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May

214 12, 2009; or
215 (iii) an area that is:
216 (A) separated from an area for the consumption of food by a patron by a solid,
217 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
218 an alcoholic product are:
219 (I) not readily visible to a patron; and
220 (II) not accessible by a patron; and
221 (B) apart from an area used:
222 (I) for dining;
223 (II) for staging; or
224 (III) as a lobby or waiting area;
225 (b) the limited-service restaurant licensee uses an alcoholic product that is:
226 (i) stored in an area described in Subsection (12)(a); or
227 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
228 (A) immediately before the alcoholic product is dispensed it is in an unopened
229 container;
230 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
231 is opened; and
232 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
233 (c) any instrument or equipment used to dispense alcoholic product is located in an
234 area described in Subsection (12)(a).
235 (13) A limited-service restaurant licensee may state in a food or alcoholic product
236 menu a charge or fee made in connection with the sale, service, or consumption of wine or
237 heavy beer including:
238 (a) a set-up charge;
239 (b) a service charge; or
240 (c) a chilling fee.

241 Section 3. Section **32B-6-905** is amended to read:
242 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**
243 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
244 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee

245 shall comply with this section.

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

248 (i) a beer-only restaurant licensee;

249 (ii) individual staff of a beer-only restaurant licensee; or

250 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

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

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

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

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

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

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

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

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

265 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
266 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
267 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
268 11:30 a.m. on any day.

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

271 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except ~~in~~
272 ~~connection with an order for~~ after the beer-only restaurant licensee confirms that the patron
273 has the intent to order food prepared, sold, and furnished at the licensed premises.

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

276 (9) A patron may not have more than two beers at a time before the patron.
277 (10) A patron may consume a beer only:
278 (a) at:
279 (i) the patron's table;
280 (ii) a grandfathered bar structure; or
281 (iii) a counter; and
282 (b) where food is served.
283 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
284 a patron, and a patron may not consume an alcoholic product at a bar structure.
285 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
286 is 21 years of age or older may:
287 (i) sit;
288 (ii) be furnished a beer; and
289 (iii) consume a beer.
290 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
291 beer-only restaurant licensee may not permit a minor to, and a minor may not:
292 (i) sit; or
293 (ii) consume food or beverages.
294 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
295 beer-only restaurant licensee:
296 (A) as provided in Subsection 32B-5-308(2); or
297 (B) to perform maintenance and cleaning services during an hour when the beer-only
298 restaurant licensee is not open for business.
299 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining
300 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in
301 which the minor is permitted to be.
302 (12) A beer-only restaurant licensee may dispense a beer only if:
303 (a) the beer is dispensed from an area that is:
304 (i) a grandfathered bar structure; or
305 (ii) separated from an area for the consumption of food by a patron by a solid,
306 translucent, permanent structural barrier such that the facilities for the storage or dispensing of

307 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
 308 from an area used for dining, for staging, or as a lobby or waiting area;

309 (b) the beer-only restaurant licensee uses a beer that is:

310 (i) stored in an area described in Subsection (12)(a); or

311 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

312 (A) immediately before the beer is dispensed it is in an unopened container;

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

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

316 (c) any instrument or equipment used to dispense the beer is located in an area
 317 described in Subsection (12)(a).

317a **Ĥ→ Section 6. Coordinating H.B. 240 with H.B. 218 -- Substantively superseding**
 317b **amendments.**

317c **If this H.B. 240 and H.B. 218, Alcohol Amendments, both pass and become law, the**
 317d **Legislature intends that the Office of Legislative Research and General Counsel, in preparing**
 317e **the Utah Code database for publication do the following:**

317f **(1) have the amendments in this H.B. 240 to Subsection 32B-6-205(8)(a) supersede the**
 317g **amendments to Subsection 32B-6-205(8)(a) in H.B. 218;**

317h **(2) have the amendments in this H.B. 240 to Subsection 32B-6-305(8)(a) supersede the**
 317i **amendments to Subsection 32B-6-305(8)(a) in H.B. 218; and**

317j **(3) have the amendments in this H.B. 240 to Subsection 32B-6-905(8)(a) supersede the**
 317k **amendments to Subsection 32B-6-905(8)(a) in H.B. 218. ←Ĥ**

Legislative Review Note
 as of 2-12-13 11:15 AM

Office of Legislative Research and General Counsel