

BEER ORDER AND DELIVERY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill permits an off-premise beer retailer to deliver beer off licensed premises under certain conditions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits an off-premise beer retailer to make an off-premise beer delivery under certain conditions;
- ▶ provides for the Alcoholic Beverage Control Commission to establish rules by which an off-premise beer retailer applies for permission to make off-premise beer deliveries;
- ▶ requires the Division of Substance Abuse and Mental Health to establish training regarding off-premise beer delivery; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **32B-1-102**, as last amended by Laws of Utah 2021, Chapter 291
- 29 **32B-1-701**, as last amended by Laws of Utah 2019, Chapter 12 and renumbered and
- 30 amended by Laws of Utah 2019, Chapter 403
- 31 **32B-7-202**, as last amended by Laws of Utah 2019, Chapter 403
- 32 **62A-15-401**, as last amended by Laws of Utah 2019, Chapter 403

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

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

36 **32B-1-102. Definitions.**

37 As used in this title:

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

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

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

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

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

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

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

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

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

- 54 (i) except as provided in Subsection (4)(d), an extract;
- 55 (ii) vinegar;
- 56 (iii) preserved nonintoxicating cider;
- 57 (iv) essence;
- 58 (v) tincture;

- 59 (vi) food preparation; or
- 60 (vii) an over-the-counter medicine.
- 61 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 62 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 63 (5) "Alcohol training and education seminar" means a seminar that is:
- 64 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 65 (b) described in Section [62A-15-401](#).
- 66 (6) "Arena" means an enclosed building:
- 67 (a) that is managed by:
- 68 (i) the same person who owns the enclosed building;
- 69 (ii) a person who has a majority interest in each person who owns or manages a space
- 70 in the enclosed building; or
- 71 (iii) a person who has authority to direct or exercise control over the management or
- 72 policy of each person who owns or manages a space in the enclosed building;
- 73 (b) that operates as a venue; and
- 74 (c) that has an occupancy capacity of at least 12,500.
- 75 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
- 76 License Act, and Chapter 8c, Arena License Act.
- 77 (8) "Banquet" means an event:
- 78 (a) that is a private event or a privately sponsored event;
- 79 (b) that is held at one or more designated locations approved by the commission in or
- 80 on the premises of:
- 81 (i) a hotel;
- 82 (ii) a resort facility;
- 83 (iii) a sports center;
- 84 (iv) a convention center;
- 85 (v) a performing arts facility; or
- 86 (vi) an arena;
- 87 (c) for which there is a contract:
- 88 (i) between a person operating a facility listed in Subsection (8)(b) and another person
- 89 that has common ownership of less than 20% with the person operating the facility; and

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

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

93 (9) "Bar structure" means a surface or structure on a licensed premises if on or at any
94 place of the surface or structure an alcoholic product is:

95 (a) stored; or

96 (b) dispensed.

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

99 (b) "Bar establishment license" includes:

100 (i) a dining club license;

101 (ii) an equity license;

102 (iii) a fraternal license; or

103 (iv) a bar license.

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

106 (12) (a) Subject to Subsection (12)(d), "beer" means a product that:

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

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

110 (b) "Beer" may or may not contain hops or other vegetable products.

111 (c) "Beer" includes a product that:

112 (i) contains alcohol in the percentages described in Subsection (12)(a); and

113 (ii) is referred to as:

114 (A) beer;

115 (B) ale;

116 (C) porter;

117 (D) stout;

118 (E) lager; or

119 (F) a malt or malted beverage.

120 (d) "Beer" does not include a flavored malt beverage.

121 (13) "Beer-only restaurant license" means a license issued in accordance with Chapter
122 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

123 (14) "Beer retailer" means a business that:

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

126 (b) is licensed as:

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

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

131 (15) "Beer wholesaling license" means a license:

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

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

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

136 (a) a light device;

137 (b) a painting;

138 (c) a drawing;

139 (d) a poster;

140 (e) a sign;

141 (f) a signboard; or

142 (g) a scoreboard.

143 (17) "Brewer" means a person engaged in manufacturing:

144 (a) beer;

145 (b) heavy beer; or

146 (c) a flavored malt beverage.

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

149 (19) "Certificate of approval" means a certificate of approval obtained from the
150 department under Section [32B-11-201](#).

151 (20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by

152 a bus company to a group of persons pursuant to a common purpose:

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

157 (21) "Church" means a building:

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

162 (22) "Commission" means the Alcoholic Beverage Control Commission created in
163 Section [32B-2-201](#).

164 (23) "Commissioner" means a member of the commission.

165 (24) "Community location" means:

- 166 (a) a public or private school;
- 167 (b) a church;
- 168 (c) a public library;
- 169 (d) a public playground; or
- 170 (e) a public park.

171 (25) "Community location governing authority" means:

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

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

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

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

182 (28) "Convention center" means a facility that is:

- 183 (a) in total at least 30,000 square feet; and
- 184 (b) otherwise defined as a "convention center" by the commission by rule.
- 185 (29) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 186 where seating is provided to a patron for service of food.
- 187 (b) "Counter" does not include a dispensing structure.
- 188 (30) "Crime involving moral turpitude" is as defined by the commission by rule.
- 189 (31) "Department" means the Department of Alcoholic Beverage Control created in
- 190 Section [32B-2-203](#).
- 191 (32) "Department compliance officer" means an individual who is:
- 192 (a) an auditor or inspector; and
- 193 (b) employed by the department.
- 194 (33) "Department sample" means liquor that is placed in the possession of the
- 195 department for testing, analysis, and sampling.
- 196 (34) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 197 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 198 commission as a dining club license.
- 199 (35) "Director," unless the context requires otherwise, means the director of the
- 200 department.
- 201 (36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 202 title:
- 203 (a) against a person subject to administrative action; and
- 204 (b) that is brought on the basis of a violation of this title.
- 205 (37) (a) Subject to Subsection (37)(b), "dispense" means:
- 206 (i) drawing an alcoholic product; and
- 207 (ii) using the alcoholic product at the location from which it was drawn to mix or
- 208 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 209 (b) The definition of "dispense" in this Subsection (37) applies only to:
- 210 (i) a full-service restaurant license;
- 211 (ii) a limited-service restaurant license;
- 212 (iii) a reception center license;
- 213 (iv) a beer-only restaurant license;

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

- 245 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 246 (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
247 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
248 commission as a fraternal license.
- 249 (46) "Full-service restaurant license" means a license issued in accordance with
250 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 251 (47) (a) "Furnish" means by any means to provide with, supply, or give an individual
252 an alcoholic product, by sale or otherwise.
- 253 (b) "Furnish" includes to:
- 254 (i) serve;
- 255 (ii) deliver; or
- 256 (iii) otherwise make available.
- 257 (48) "Guest" means an individual who meets the requirements of Subsection
258 [32B-6-407\(9\)](#).
- 259 (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 260 (50) "Health care practitioner" means:
- 261 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 262 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 263 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 264 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
265 Act;
- 266 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
267 Nurse Practice Act;
- 268 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
269 Practice Act;
- 270 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
271 Therapy Practice Act;
- 272 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 273 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
274 Professional Practice Act;
- 275 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

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

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

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

282 (51) (a) "Heavy beer" means a product that:

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

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

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

286 (52) "Hospitality amenity license" means a license issued in accordance with Chapter
287 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

288 (53) (a) "Hotel" means a commercial lodging establishment that:

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

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

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

294 (B) has at least 1,000 square feet of function space consisting of meeting or dining
295 rooms that can be reserved for private use under a banquet contract and can accommodate at
296 least 75 individuals; or

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

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

301 (i) meets the requirements under Subsection (53)(a); and

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

303 (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail
304 License Act, and Chapter 8b, Hotel License Act.

305 (55) "Identification card" means an identification card issued under Title 53, Chapter 3,
306 Part 8, Identification Card Act.

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

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

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

316 (a) law; or

317 (b) court order.

318 (59) "International airport" means an airport:

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

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

322 (60) "Intoxicated" means that a person:

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

325 (i) an alcoholic product;

326 (ii) a controlled substance;

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

328 (iv) a combination of Subsections (60)(a)(i) through (iii); and

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

331 (61) "Investigator" means an individual who is:

332 (a) a department compliance officer; or

333 (b) a nondepartment enforcement officer.

334 (62) "License" means:

335 (a) a retail license;

336 (b) a sublicense;

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

338 State License:

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

341 [~~(d)~~] (e) a license issued in accordance with Chapter 12, Liquor Warehousing License
342 Act;

343 [~~(e)~~] (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act;
344 or

345 [~~(f)~~] (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

346 (63) "Licensee" means a person who holds a license.

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

349 (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other
350 than a bus or taxicab:

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

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

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

357 (66) (a) (i) "Liquor" means a liquid that:

358 (A) is:

359 (I) alcohol;

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

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

362 (IV) other drink or drinkable liquid; and

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

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

365 (ii) "Liquor" includes:

366 (A) heavy beer;

367 (B) wine; and

368 (C) a flavored malt beverage.

- 369 (b) "Liquor" does not include beer.
- 370 (67) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 371 (68) "Liquor transport license" means a license issued in accordance with Chapter 17,
372 Liquor Transport License Act.
- 373 (69) "Liquor warehousing license" means a license that is issued:
- 374 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 375 (b) to a person, other than a licensed manufacturer, who engages in the importation for
376 storage, sale, or distribution of liquor regardless of amount.
- 377 (70) "Local authority" means:
- 378 (a) for premises that are located in an unincorporated area of a county, the governing
379 body of a county;
- 380 (b) for premises that are located in an incorporated city, town, or metro township, the
381 governing body of the city, town, or metro township; or
- 382 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
383 in a project area plan adopted by the Military Installation Development Authority under Title
384 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
385 Development Authority.
- 386 (71) "Lounge or bar area" is as defined by rule made by the commission.
- 387 (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
388 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 389 (73) "Member" means an individual who, after paying regular dues, has full privileges
390 in an equity licensee or fraternal licensee.
- 391 (74) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
392 or homeport facility for a ship:
- 393 (i) (A) under the control of the United States Department of Defense; or
394 (B) of the National Guard;
- 395 (ii) that is located within the state; and
- 396 (iii) including a leased facility.
- 397 (b) "Military installation" does not include a facility used primarily for:
- 398 (i) civil works;
- 399 (ii) a rivers and harbors project; or

400 (iii) a flood control project.

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

403 (76) "Minor" means an individual under the age of 21 years.

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

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

406 (ii) is an agency of a county, city, town, or metro township; and

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

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

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

410 (b) employed by a nondepartment enforcement agency.

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

412 (a) that an individual orders from an off-premise beer retailer;

413 (b) by staff of the off-premise beer retailer described in Subsection (79)(a); and

414 (c) to a location in this state that is off the licensed premises of the off-premise beer
415 retailer described in Subsection (79)(a).

416 [~~79~~] (80) (a) "Off-premise beer retailer" means a beer retailer who is:

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

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

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

421 [~~80~~] (81) "Off-premise beer retailer state license" means a state license issued in
422 accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

423 [~~81~~] (82) "On-premise banquet license" means a license issued in accordance with
424 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

425 [~~82~~] (83) "On-premise beer retailer" means a beer retailer who is:

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

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

- 431 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
432 premises; and
- 433 (ii) on and after March 1, 2012, operating:
- 434 (A) as a tavern; or
- 435 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 436 ~~[(83)]~~ (84) "Opaque" means impenetrable to sight.
- 437 ~~[(84)]~~ (85) "Package agency" means a retail liquor location operated:
- 438 (a) under an agreement with the department; and
- 439 (b) by a person:
- 440 (i) other than the state; and
- 441 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
442 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 443 ~~[(85)]~~ (86) "Package agent" means a person who holds a package agency.
- 444 ~~[(86)]~~ (87) "Patron" means an individual to whom food, beverages, or services are sold,
445 offered for sale, or furnished, or who consumes an alcoholic product including:
- 446 (a) a customer;
- 447 (b) a member;
- 448 (c) a guest;
- 449 (d) an attendee of a banquet or event;
- 450 (e) an individual who receives room service;
- 451 (f) a resident of a resort; or
- 452 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
453 license.
- 454 ~~[(87)]~~ (88) (a) "Performing arts facility" means a multi-use performance space that:
- 455 (i) is primarily used to present various types of performing arts, including dance,
456 music, and theater;
- 457 (ii) contains over 2,500 seats;
- 458 (iii) is owned and operated by a governmental entity; and
- 459 (iv) is located in a city of the first class.
- 460 (b) "Performing arts facility" does not include a space that is used to present sporting
461 events or sporting competitions.

462 [~~88~~] (89) "Permittee" means a person issued a permit under:

- 463 (a) Chapter 9, Event Permit Act; or
- 464 (b) Chapter 10, Special Use Permit Act.

465 [~~89~~] (90) "Person subject to administrative action" means:

- 466 (a) a licensee;
- 467 (b) a permittee;
- 468 (c) a manufacturer;
- 469 (d) a supplier;
- 470 (e) an importer;
- 471 (f) one of the following holding a certificate of approval:
 - 472 (i) an out-of-state brewer;
 - 473 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 474 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
 - 475 (g) staff of:
 - 476 (i) a person listed in Subsections [~~89~~] (90)(a) through (f); or
 - 477 (ii) a package agent.

478 [~~90~~] (91) "Premises" means a building, enclosure, or room used in connection with
479 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
480 product, unless otherwise defined in this title or rules made by the commission.

481 [~~91~~] (92) "Prescription" means an order issued by a health care practitioner when:

- 482 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
483 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 484 (b) the order is made in the course of that health care practitioner's professional
485 practice; and
- 486 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

487 [~~92~~] (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

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

489 [~~93~~] (94) "Principal license" means:

- 490 (a) a resort license;
- 491 (b) a hotel license; or
- 492 (c) an arena license.

493 [~~(94)~~] (95) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

500 [~~(95)~~] (96) "Privately sponsored event" means a specific social, business, or
501 recreational event:

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

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

504 [~~(96)~~] (97) (a) "Proof of age" means:

505 (i) an identification card;

506 (ii) an identification that:

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

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

510 (C) includes date of birth; and

511 (D) has a picture affixed;

512 (iii) a valid driver license certificate that:

513 (A) includes date of birth;

514 (B) has a picture affixed; and

515 (C) is issued:

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

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

518 (iv) a military identification card that:

519 (A) includes date of birth; and

520 (B) has a picture affixed; or

521 (v) a valid passport.

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

523 Section [53-3-207](#).

524 [~~(97)~~] (98) "Provisions applicable to a sublicense" means:

525 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
526 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

527 (b) for a limited-service restaurant sublicense, the provisions applicable to a
528 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

529 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
530 license under Chapter 6, Part 4, Bar Establishment License;

531 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
532 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

533 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
534 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

535 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
536 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

537 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
538 license under Chapter 6, Part 10, Hospitality Amenity License; and

539 (h) for a resort spa sublicense, the provisions applicable to the sublicense under
540 Chapter 8d, Part 2, Resort Spa Sublicense.

541 [~~(98)~~] (99) (a) "Public building" means a building or permanent structure that is:

542 (i) owned or leased by:

543 (A) the state; or

544 (B) a local government entity; and

545 (ii) used for:

546 (A) public education;

547 (B) transacting public business; or

548 (C) regularly conducting government activities.

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

552 [~~(99)~~] (100) "Public conveyance" means a conveyance that the public or a portion of
553 the public has access to and a right to use for transportation, including an airline, railroad, bus,
554 boat, or other public conveyance.

555 ~~[(100)]~~ (101) "Reception center" means a business that:
556 (a) operates facilities that are at least 5,000 square feet; and
557 (b) has as its primary purpose the leasing of the facilities described in Subsection
558 ~~[(100)]~~ (101)(a) to a third party for the third party's event.
559 ~~[(101)]~~ (102) "Reception center license" means a license issued in accordance with
560 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
561 ~~[(102)]~~ (103) (a) "Record" means information that is:
562 (i) inscribed on a tangible medium; or
563 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
564 (b) "Record" includes:
565 (i) a book;
566 (ii) a book of account;
567 (iii) a paper;
568 (iv) a contract;
569 (v) an agreement;
570 (vi) a document; or
571 (vii) a recording in any medium.
572 ~~[(103)]~~ (104) "Residence" means a person's principal place of abode within Utah.
573 ~~[(104)]~~ (105) "Resident," in relation to a resort, means the same as that term is defined
574 in Section [32B-8-102](#).
575 ~~[(105)]~~ (106) "Resort" means the same as that term is defined in Section [32B-8-102](#).
576 ~~[(106)]~~ (107) "Resort facility" is as defined by the commission by rule.
577 ~~[(107)]~~ (108) "Resort spa sublicense" means a resort license sublicense issued in
578 accordance with Chapter 8d, Part 2, Resort Spa Sublicense.
579 ~~[(108)]~~ (109) "Resort license" means a license issued in accordance with Chapter 5,
580 Retail License Act, and Chapter 8, Resort License Act.
581 ~~[(109)]~~ (110) "Responsible alcohol service plan" means a written set of policies and
582 procedures that outlines measures to prevent employees from:
583 (a) over-serving alcoholic beverages to customers;
584 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
585 intoxicated; and

586 (c) serving alcoholic beverages to minors.

587 [~~(110)~~] (111) "Restaurant" means a business location:

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

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

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

591 [~~(111)~~] (112) "Restaurant license" means one of the following licenses issued under
592 this title:

593 (a) a full-service restaurant license;

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

595 (c) a beer-only restaurant license.

596 [~~(112)~~] (113) "Retail license" means one of the following licenses issued under this
597 title:

598 (a) a full-service restaurant license;

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

600 (c) a limited-service restaurant license;

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

602 (e) a bar establishment license;

603 (f) an airport lounge license;

604 (g) an on-premise banquet license;

605 (h) an on-premise beer license;

606 (i) a reception center license;

607 (j) a beer-only restaurant license;

608 (k) a hospitality amenity license;

609 (l) a resort license;

610 (m) a hotel license; or

611 (n) an arena license.

612 [~~(113)~~] (114) "Room service" means furnishing an alcoholic product to a person in a
613 guest room or privately owned dwelling unit of a:

614 (a) hotel; or

615 (b) resort facility.

616 [~~(114)~~] (115) (a) "School" means a building in which any part is used for more than

617 three hours each weekday during a school year as a public or private:

618 (i) elementary school;

619 (ii) secondary school; or

620 (iii) kindergarten.

621 (b) "School" does not include:

622 (i) a nursery school;

623 (ii) a day care center;

624 (iii) a trade and technical school;

625 (iv) a preschool; or

626 (v) a home school.

627 ~~[(115)]~~ (116) "Secondary flavoring ingredient" means any spirituous liquor added to a
628 beverage for additional flavoring that is different in type, flavor, or brand from the primary
629 spirituous liquor in the beverage.

630 ~~[(116)]~~ (117) "Sell" or "offer for sale" means a transaction, exchange, or barter
631 whereby, for consideration, an alcoholic product is either directly or indirectly transferred,
632 solicited, ordered, delivered for value, or by a means or under a pretext is promised or
633 obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise
634 defined in this title or the rules made by the commission.

635 ~~[(117)]~~ (118) "Serve" means to place an alcoholic product before an individual.

636 ~~[(118)]~~ (119) "Sexually oriented entertainer" means a person who while in a state of
637 seminudity appears at or performs:

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

639 (b) on the premises of:

640 (i) a bar licensee; or

641 (ii) a tavern;

642 (c) on behalf of or at the request of the licensee described in Subsection ~~[(118)]~~

643 (119)(b);

644 (d) on a contractual or voluntary basis; and

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

646 (i) an employee;

647 (ii) an independent contractor;

648 (iii) an agent of the licensee; or

649 (iv) a different type of classification.

650 ~~[(119)]~~ (120) "Shared seating area" means the licensed premises of two or more

651 restaurant licensees that the restaurant licensees share as an area for alcoholic beverage

652 consumption in accordance with Subsection [32B-5-207\(3\)](#).

653 ~~[(120)]~~ (121) "Single event permit" means a permit issued in accordance with Chapter

654 9, Part 3, Single Event Permit.

655 ~~[(121)]~~ (122) "Small brewer" means a brewer who manufactures less than 60,000

656 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates

657 by:

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

660 and

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

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

664 Rulemaking Act; and

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

666 ~~[(122)]~~ (123) "Small or unincorporated locality" means:

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

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

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

671 ~~[(123)]~~ (124) "Special use permit" means a permit issued in accordance with Chapter

672 10, Special Use Permit Act.

673 ~~[(124)]~~ (125) (a) "Spirituous liquor" means liquor that is distilled.

674 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
675 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

676 ~~[(125)]~~ (126) "Sports center" is as defined by the commission by rule.

677 ~~[(126)]~~ (127) (a) "Staff" means an individual who engages in activity governed by this
678 title:

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

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

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

685 (b) "Staff" includes:

686 (i) an officer;

687 (ii) a director;

688 (iii) an employee;

689 (iv) personnel management;

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

691 (vi) an operator; or

692 (vii) a representative.

693 [~~127~~] (128) "State of nudity" means:

694 (a) the appearance of:

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

696 (ii) a human genital;

697 (iii) a human pubic area; or

698 (iv) a human anus; or

699 (b) a state of dress that fails to opaquely cover:

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

701 (ii) a human genital;

702 (iii) a human pubic area; or

703 (iv) a human anus.

704 [~~128~~] (129) "State of seminudity" means a state of dress in which opaque clothing
705 covers no more than:

706 (a) the nipple and areola of the female human breast in a shape and color other than the
707 natural shape and color of the nipple and areola; and

708 (b) the human genitals, pubic area, and anus:

709 (i) with no less than the following at its widest point:

- 710 (A) four inches coverage width in the front of the human body; and
- 711 (B) five inches coverage width in the back of the human body; and
- 712 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

713 [~~(129)~~] (130) (a) "State store" means a facility for the sale of packaged liquor:

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

716 (b) "State store" does not include:

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

720 [~~(130)~~] (131) (a) "Storage area" means an area on licensed premises where the licensee
721 stores an alcoholic product.

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

723 [~~(131)~~] (132) "Sublicense" means:

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

- 726 (i) a full-service restaurant license;
- 727 (ii) a limited-service restaurant license;
- 728 (iii) a bar establishment license;
- 729 (iv) an on-premise banquet license;
- 730 (v) an on-premise beer retailer license;
- 731 (vi) a beer-only restaurant license; or
- 732 (vii) a hospitality amenity license; or
- 733 (b) a resort spa sublicense.

734 [~~(132)~~] (133) "Supplier" means a person who sells an alcoholic product to the
735 department.

736 [~~(133)~~] (134) "Tavern" means an on-premise beer retailer who is:

- 737 (a) issued a license by the commission in accordance with Chapter 5, Retail License
738 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- 739 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
740 On-Premise Beer Retailer License.

741 [~~(134)~~] (135) "Temporary beer event permit" means a permit issued in accordance with
742 Chapter 9, Part 4, Temporary Beer Event Permit.

743 [~~(135)~~] (136) "Temporary domicile" means the principal place of abode within Utah of
744 a person who does not have a present intention to continue residency within Utah permanently
745 or indefinitely.

746 [~~(136)~~] (137) "Translucent" means a substance that allows light to pass through, but
747 does not allow an object or person to be seen through the substance.

748 [~~(137)~~] (138) "Unsaleable liquor merchandise" means a container that:

749 (a) is unsaleable because the container is:

750 (i) unlabeled;

751 (ii) leaky;

752 (iii) damaged;

753 (iv) difficult to open; or

754 (v) partly filled;

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

756 (ii) has contents that are:

757 (A) cloudy;

758 (B) spoiled; or

759 (C) chemically determined to be impure; or

760 (iii) contains:

761 (A) sediment; or

762 (B) a foreign substance; or

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

764 [~~(138)~~] (139) (a) "Wine" means an alcoholic product obtained by the fermentation of
765 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
766 not another ingredient is added.

767 (b) "Wine" includes:

768 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
769 4.10; and

770 (ii) hard cider.

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

772 in this title.

773 ~~[(139)]~~ (140) "Winery manufacturing license" means a license issued in accordance
774 with Chapter 11, Part 3, Winery Manufacturing License.

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

776 **32B-1-701. Definitions.**

777 As used in this part:

778 (1) "Off-premise retail manager" means an individual who manages operations at a
779 premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

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

781 (i) sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer
782 Act~~[-]~~; or

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

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

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

786 (a) manages operations at a premises that is licensed under this chapter; or

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

788 under this chapter.

789 (4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises
790 licensed under this chapter.

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

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

793 **32B-7-202. General operational requirements for off-premise beer retailer.**

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

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

797 (i) a suspension or revocation of a local license; and~~[-]~~

798 (ii) on or after July 1, 2018, disciplinary action in accordance with Chapter 3,
799 Disciplinary Actions and Enforcement Act.

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

- 803 (A) a beer wholesaler licensee; or
- 804 (B) a small brewer that manufactures the beer.
- 805 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.
- 806 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
- 807 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
- 808 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
- 809 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
- 810 the department to sell to the off-premise beer retailer as provided in Section [32B-13-301](#).
- 811 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.
- 812 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
- 813 container larger than two liters.
- 814 (4) (a) Staff of an off-premise beer retailer, while on duty, may not:
- 815 (i) consume an alcoholic product; or
- 816 (ii) be intoxicated.
- 817 (b) A minor may not sell beer on the licensed premises of an off-premise beer retailer
- 818 unless:
- 819 (i) the sale is done under the supervision of a person 21 years [~~of age~~] old or older who
- 820 is on the licensed premises; and
- 821 (ii) the minor is at least 16 years [~~of age~~] old.
- 822 (5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic
- 823 product to:
- 824 (a) a minor;
- 825 (b) a person actually, apparently, or obviously intoxicated;
- 826 (c) a known interdicted person; or
- 827 (d) a known habitual drunkard.
- 828 (6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer
- 829 retailer shall:
- 830 (i) display all beer accessible by and visible to a patron in no more than two locations
- 831 on the retail sales floor, each of which is:
- 832 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only
- 833 beverage displayed; and

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

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

839 (A) is prominent;

840 (B) is easily readable by a consumer;

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

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

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

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

848 (i) a malt cooler; or

849 (ii) a beverage that may provide energy.

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

851 ~~[(e)(i) Except as provided in Subsection (6)(c)(ii), the provisions of Subsection~~
852 ~~(6)(a)(i) apply on and after May 9, 2017.]~~

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

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

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

859 (ii) visible above the waist;

860 (iii) bearing the staff's:

861 (A) first or last name;

862 (B) initials; or

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

864 (iv) with the number or letters on the unique identification badge being sufficiently

865 large to be clearly visible and identifiable while engaging in or directly supervising the retail
866 sale of beer.

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

869 (i) full name;

870 (ii) address; and

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

872 (B) similar identification number.

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

875 (i) a peace officer;

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

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

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

882 (8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a
883 drive through window.

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

886 (9) (a) Subject to Subsection (9)(b), an off-premise beer retailer may have staff of the
887 off-premise beer retailer make an off-premise beer delivery, if:

888 (i) the off-premise beer retailer does not process payment for the beer until the delivery
889 of the beer is complete;

890 (ii) the order is for the lesser of four cases or 1,152 ounces of beer;

891 (iii) the staff:

892 (A) is at least 21 years old;

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

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

896 (D) only delivers the beer during the period that begins at 10:00 a.m. and ends at 11:59
897 p.m.;

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

899 (A) proof of age verification for the individual to whom staff delivers the beer that
900 records no more than the individual's name, age, number assigned to the individual's proof of
901 age by the issuing authority, birth date, gender, and status and expiration date of the
902 individual's proof of age;

903 (B) the date staff delivered the beer;

904 (C) the time staff delivered the beer; and

905 (D) the physical address to which staff delivered the beer; and

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

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

909 (B) the receipt for the beer order.

910 (b) Before making any off-premise beer delivery, an off-premise beer retailer shall
911 apply for, in a manner the commission determines by rule made in accordance with Title 63G,
912 Chapter 3, Utah Administrative Rulemaking Act, and obtain permission from the department to
913 make off-premise beer deliveries.

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

916 (i) the department;

917 (ii) the local authority; or

918 (iii) the Department of Public Safety.

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

920 **62A-15-401. Alcohol training and education seminar.**

921 (1) As used in this part:

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

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

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

926 and

927 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
928 of the licensee; or

929 (ii) a business that is:

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

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

932 (c) "Off-premise beer delivery" means the same as that term is defined in Section
933 32B-1-102.

934 [~~(c)~~] (d) "Off-premise beer retailer" [is as] means the same as that term is defined in
935 Section 32B-1-102.

936 [~~(d)~~] (e) "Seminar provider" means a person other than the division who provides an
937 alcohol training and education seminar meeting the requirements of this section.

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

939 (i) a retail manager as defined in Section 32B-1-701;

940 (ii) retail staff as defined in Section 32B-1-701; and

941 (iii) an individual who, as defined by division rule:

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

944 (B) sells beer to a customer for consumption off the premises of an off-premise beer
945 retailer[-]; or

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

947 (b) If the individual does not have a valid record that the individual has completed an
948 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

949 (i) (A) complete an alcohol training and education seminar within 30 days [~~of the~~
950 ~~following~~] after the day on which one of the following occurs, if the individual is described in
951 Subsection (2)(a)(i) or (ii):

952 (I) if the individual is an employee, the day on which the individual begins
953 employment;

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

956 (III) if the individual holds an ownership interest in the licensee, the day [~~that~~] on
957 which the individual first engages in an activity that would result in that individual being

958 required to complete an alcohol training and education seminar; or

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

962 (ii) pay a fee:

963 (A) to the seminar provider; and

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

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

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

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

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

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

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

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

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

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

988 [~~(i)~~] (A) authentication that the an individual accurately identifies the individual as

989 taking the online course or test;

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

992 ~~[(iii)]~~ (C) measures to track the actual time an individual taking the online course or
993 test is actively engaged online;

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

998 ~~[(v)]~~ (E) a test to meet quality standards, including randomization of test questions and
999 maximum time limits to take a test;

1000 ~~[(vi)]~~ (F) a seminar provider to have a system to reduce fraud as to who completes an
1001 online course or test, such as requiring a distinct online certificate with information printed on
1002 the certificate that identifies the person taking the online course or test, or requiring measures
1003 to inhibit duplication of a certificate;

1004 ~~[(vii)]~~ (G) measures for the division to audit online courses or tests;

1005 ~~[(viii)]~~ (H) measures to allow an individual taking an online course or test to provide
1006 an evaluation of the online course or test;

1007 ~~[(ix)]~~ (I) a seminar provider to track the Internet protocol address or similar electronic
1008 location of an individual who takes an online course or test;

1009 ~~[(x)]~~ (J) an individual who takes an online course or test to use an e-signature; or

1010 ~~[(xi)]~~ (K) a seminar provider to invalidate a certificate if the seminar provider learns
1011 that the certificate does not accurately reflect the individual who took the online course or test.

1012 (3) (a) A licensee may not permit an individual who is not in compliance with
1013 Subsection (2) to:

1014 (i) serve or supervise the serving of an alcoholic product to a customer for
1015 consumption on the premises of the licensee;

1016 (ii) engage in any activity that would constitute managing operations at the premises of
1017 a licensee that engages in the retail sale of an alcoholic product for consumption on the
1018 premises of the licensee;

1019 (iii) directly supervise the sale of beer to a customer for consumption off the premises

1020 of an off-premise beer retailer; [~~or~~]
1021 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
1022 retailer[-]; or
1023 (v) make an off-premise beer delivery.
1024 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-1-702](#).
1025 (4) The division shall:
1026 (a) (i) provide alcohol training and education seminars; or
1027 (ii) certify one or more seminar providers;
1028 (b) establish the curriculum for an alcohol training and education seminar that includes
1029 the following subjects:
1030 (i) (A) alcohol as a drug; and
1031 (B) alcohol's effect on the body and behavior;
1032 (ii) recognizing the problem drinker or signs of intoxication;
1033 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
1034 as determined in consultation with the Department of Alcoholic Beverage Control;
1035 (iv) dealing with the problem customer, including ways to terminate sale or service;
1036 and
1037 (v) for those supervising or engaging in the retail sale of an alcoholic product for
1038 consumption on the premises of a licensee, alternative means of transportation to get the
1039 customer safely home;
1040 (c) recertify each seminar provider every three years;
1041 (d) monitor compliance with the curriculum described in Subsection (4)(b);
1042 (e) maintain for at least five years a record of every person who has completed an
1043 alcohol training and education seminar;
1044 (f) provide the information described in Subsection (4)(e) on request to:
1045 (i) the Department of Alcoholic Beverage Control;
1046 (ii) law enforcement; or
1047 (iii) a person licensed by the state or a local government to sell an alcoholic product;
1048 (g) provide the Department of Alcoholic Beverage Control on request a list of any
1049 seminar provider certified by the division; and
1050 (h) establish a fee amount for each person attending an alcohol training and education

- 1051 seminar that is sufficient to offset the division's cost of administering this section.
- 1052 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
1053 Administrative Rulemaking Act:
- 1054 (a) define what constitutes under this section an individual who:
- 1055 (i) manages operations at the premises of a licensee engaged in the retail sale of an
1056 alcoholic product for consumption on the premises of the licensee;
- 1057 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
1058 premises of a licensee;
- 1059 (iii) serves an alcoholic product to a customer for consumption on the premises of a
1060 licensee;
- 1061 (iv) directly supervises the sale of beer to a customer for consumption off the premises
1062 of an off-premise beer retailer; ~~[or]~~
- 1063 (v) sells beer to a customer for consumption off the premises of an off-premise beer
1064 retailer; or
- 1065 (vi) makes an off-premise beer delivery.
- 1066 (b) establish criteria for certifying and recertifying a seminar provider; and
- 1067 (c) establish guidelines for the manner in which an instructor provides an alcohol
1068 education and training seminar.
- 1069 (6) A seminar provider shall:
- 1070 (a) obtain recertification by the division every three years;
- 1071 (b) ensure that an instructor used by the seminar provider:
- 1072 (i) follows the curriculum established under this section; and
- 1073 (ii) conducts an alcohol training and education seminar in accordance with the
1074 guidelines established by rule;
- 1075 (c) ensure that any information provided by the seminar provider or instructor of a
1076 seminar provider is consistent with:
- 1077 (i) the curriculum established under this section; and
- 1078 (ii) this section;
- 1079 (d) provide the division with the names of all persons who complete an alcohol training
1080 and education seminar provided by the seminar provider;
- 1081 (e) (i) collect a fee for each person attending an alcohol training and education seminar

1082 in accordance with Subsection (2); and
1083 (ii) forward to the division the portion of the fee that is equal to the amount described
1084 in Subsection (4)(h); and
1085 (f) issue a record to an individual that completes an alcohol training and education
1086 seminar provided by the seminar provider.
1087 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
1088 Administrative Procedures Act, the division finds that a seminar provider violates this section
1089 or that an instructor of the seminar provider violates this section, the division may:
1090 (i) suspend the certification of the seminar provider for a period not to exceed 90 days
1091 after the day on which the suspensions begins;
1092 (ii) revoke the certification of the seminar provider;
1093 (iii) require the seminar provider to take corrective action regarding an instructor; or
1094 (iv) prohibit the seminar provider from using an instructor until such time that the
1095 seminar provider establishes to the satisfaction of the division that the instructor is in
1096 compliance with Subsection (6)(b).
1097 (b) The division may certify a seminar provider whose certification is revoked:
1098 (i) no sooner than 90 days [~~from the date~~] after the day on which the division revokes
1099 the certification [is revoked]; and
1100 (ii) if the seminar provider establishes to the satisfaction of the division that the
1101 seminar provider will comply with this section.