

**DELIVERY OF HEAVY BEER AND FLAVORED MALT  
BEVERAGE**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

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

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**LONG TITLE**

**General Description:**

This bill amends the Alcoholic Beverage Control Act regarding the distribution of heavy beer and flavored malt beverage.

**Highlighted Provisions:**

This bill:

- ▶ requires a beer wholesaler licensee to remit the mark up on heavy beer and flavored malt beverage upon delivery;
- ▶ permits a beer wholesaler licensee to sell heavy beer and flavored malt beverage to certain retailers in certain circumstances;
- ▶ amends the Utah Beer Industry Distribution Act to apply to heavy beer and flavored malt beverage;
- ▶ amends the tax basis in Title 59, Chapter 15, Beer Tax; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28            **32B-2-304**, as last amended by Laws of Utah 2018, Chapters 313, 329, and 415
- 29            **32B-4-401**, as last amended by Laws of Utah 2016, Chapter 266
- 30            **32B-4-417**, as enacted by Laws of Utah 2010, Chapter 276
- 31            **32B-4-704**, as last amended by Laws of Utah 2011, Chapter 307
- 32            **32B-5-303**, as last amended by Laws of Utah 2011, Chapter 307
- 33            **32B-6-205.3**, as enacted by Laws of Utah 2017, Chapter 455
- 34            **32B-6-305.3**, as enacted by Laws of Utah 2017, Chapter 455
- 35            **32B-6-404.1**, as last amended by Laws of Utah 2018, Chapter 249
- 36            **32B-6-604**, as last amended by Laws of Utah 2011, Chapter 334
- 37            **32B-6-905.2**, as last amended by Laws of Utah 2018, Chapter 281
- 38            **32B-10-304**, as last amended by Laws of Utah 2011, Chapter 334
- 39            **32B-11-201**, as last amended by Laws of Utah 2011, Chapter 334
- 40            **32B-11-208**, as enacted by Laws of Utah 2010, Chapter 276
- 41            **32B-11-210**, as enacted by Laws of Utah 2016, Chapter 266
- 42            **32B-11-503**, as last amended by Laws of Utah 2016, Chapter 266
- 43            **32B-13-201**, as last amended by Laws of Utah 2011, Chapter 334
- 44            **32B-13-202**, as last amended by Laws of Utah 2011, Chapter 334
- 45            **32B-13-205**, as enacted by Laws of Utah 2010, Chapter 276
- 46            **32B-13-301**, as last amended by Laws of Utah 2011, Chapter 334
- 47            **32B-14-102**, as enacted by Laws of Utah 2010, Chapter 276
- 48            **32B-14-201**, as enacted by Laws of Utah 2010, Chapter 276
- 49            **32B-14-302**, as enacted by Laws of Utah 2010, Chapter 276
- 50            **32B-14-303**, as enacted by Laws of Utah 2010, Chapter 276
- 51            **59-15-101**, as last amended by Laws of Utah 2010, Chapter 276

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

54            Section 1. Section **32B-2-304** is amended to read:

55            **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

56            (1) For purposes of this section:

57            (a) (i) "Landed case cost" means:

58            (A) the cost of the product; and

- 59 (B) inbound shipping costs incurred by the department.
- 60 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse  
61 of the department to a state store.
- 62 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.
- 63 (c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who  
64 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt  
65 beverage.
- 66 (2) Except as provided in Subsection (3):
- 67 (a) spirituous liquor sold by the department within the state shall be marked up in an  
68 amount not less than 88% above the landed case cost to the department;
- 69 (b) wine sold by the department within the state shall be marked up in an amount not  
70 less than 88% above the landed case cost to the department;
- 71 (c) heavy beer sold [~~by the department~~] within the state shall be marked up in an  
72 amount not less than 66.5% above the [~~landed case cost to the department~~] cost of the product,  
73 with a beer wholesaler licensee remitting each mark up amount to the department upon  
74 delivery; and
- 75 (d) a flavored malt beverage sold [~~by the department~~] within the state shall be marked  
76 up in an amount not less than 88% above the [~~landed case cost to the department~~] cost of the  
77 product, with a beer wholesaler licensee remitting each mark up amount to the department  
78 upon delivery.
- 79 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked  
80 up in an amount not less than 17% above the landed case cost to the department.
- 81 (b) Except for spirituous liquor sold by the department to a military installation in  
82 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%  
83 above the landed case cost to the department if:
- 84 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000  
85 proof gallons of spirituous liquor in a calendar year; and
- 86 (ii) the manufacturer applies to the department for a reduced markup.
- 87 (c) Except for wine sold by the department to a military installation in Utah, wine that  
88 is sold by the department within the state shall be marked up 49% above the landed case cost to  
89 the department if:

90 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a  
91 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

92 (B) for hard cider, the hard cider is manufactured by a manufacturer producing less  
93 than 620,000 gallons of hard cider in a calendar year; and

94 (ii) the manufacturer applies to the department for a reduced markup.

95 (d) Except for heavy beer sold ~~[by the department]~~ to a military installation in Utah,  
96 heavy beer that is sold ~~[by the department]~~ within the state shall be marked up 32% above the  
97 ~~[landed case cost to the department]~~ cost of the product, with a beer wholesaler licensee  
98 remitting each mark up amount to the department upon delivery, if:

99 (i) a small brewer manufactures the heavy beer; and

100 (ii) the small brewer applies to the department for a reduced markup.

101 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)  
102 pursuant to a federal or other verifiable production report.

103 (4) The department shall deposit 10% of the total gross revenue from sales of liquor  
104 with the state treasurer to be credited to the Uniform School Fund and used to support the  
105 school lunch program administered by the State Board of Education under Section 53E-3-510.

106 (5) This section does not prohibit the department from selling discontinued items at a  
107 discount.

108 Section 2. Section 32B-4-401 is amended to read:

109 **32B-4-401. Unlawful sale or furnishing.**

110 (1) It is unlawful for a retail licensee, a permittee, or staff of a retail licensee or  
111 permittee to keep for sale, or to directly or indirectly, sell, offer for sale, or furnish to another,  
112 an alcoholic product, except as otherwise provided by this title.

113 (2) It is unlawful for a person in the business of selling liquor, a manufacturer, a  
114 supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to  
115 sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state  
116 location directly or indirectly into this state except to the extent authorized by this title to:

117 (a) the department;

118 (b) a military installation;

119 (c) a holder of a special use permit, to the extent authorized in the special use permit;

120 ~~[or]~~

121 (d) a liquor warehouser licensee licensed to distribute and transport liquor to:  
 122 (i) the department; or  
 123 (ii) an out-of-state wholesaler or retailer[-]; or  
 124 (e) a liquor warehouser licensee who is also a beer wholesaler licensee licensed to  
 125 distribute and transport heavy beer and flavored malt beverage.

126 (3) (a) It is unlawful for a person in the business of selling beer, a manufacturer, a  
 127 supplier, an importer of beer, or staff of the person, manufacturer, or importer to sell, ship,  
 128 transport, or cause to be sold, shipped, or transported beer from an out-of-state location directly  
 129 or indirectly into this state except to the extent authorized by this title to:

- 130 (i) a beer wholesaler licensee;
- 131 (ii) a military installation; or
- 132 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

133 (b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of  
 134 approval from selling, shipping, or transporting beer to the extent authorized by Subsection  
 135 [32B-11-503\(5\)](#) directly to:

- 136 (i) a beer retailer; or
- 137 (ii) an event permittee.

138 (4) (a) It is unlawful for a manufacturer, supplier, or importer of liquor in this state, or  
 139 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,  
 140 shipped, or transported liquor directly or indirectly to a person in this state except to the extent  
 141 authorized by this title to:

- 142 (i) the department;
- 143 (ii) a military installation;
- 144 (iii) a holder of a special use permit, to the extent authorized in the special use permit;

145 [~~or~~]

146 (iv) a liquor warehouser licensee who is licensed to distribute and transport liquor to:

- 147 (A) the department; or
- 148 (B) an out-of-state wholesaler or retailer[-]; or

149 (v) a liquor warehouser licensee who is also a beer wholesaler licensee licensed to  
 150 distribute and transport heavy beer and flavored malt beverage.

151 (b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this

152 state from selling wine to a person on its winery premises:

153 (i) to the extent authorized by Subsection 32B-11-303(4); or

154 (ii) under a package agency issued by the commission on the winery premises.

155 (c) Subsection (4)(a) does not preclude a distillery manufacturing licensee located in

156 this state from selling liquor on its distillery premises:

157 (i) to the extent authorized in Subsection 32B-11-403(5); or

158 (ii) under a package agency issued by the commission on the distillery premises.

159 (d) Subsection (4)(a) does not preclude a brewery manufacturing licensee located in

160 this state from selling heavy beer or flavored malt beverages on its brewery premises:

161 (i) to the extent authorized under Subsection 32B-11-503[~~(4)~~](3); or

162 (ii) under a package agency issued by the commission on its brewery premises.

163 (5) (a) It is unlawful for a manufacturer, supplier, or importer of beer in this state, or

164 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,

165 shipped, or transported beer directly or indirectly to a person in this state except to the extent

166 authorized by this title to:

167 (i) a beer wholesaler licensee;

168 (ii) a military installation; or

169 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

170 (b) Subsection (5)(a) does not preclude:

171 (i) a small brewer who is a brewery manufacturing licensee located in this state from

172 selling, shipping, and transporting beer to the extent authorized by Subsection

173 32B-11-503[~~(5)~~](4) directly to one of the following in this state:

174 (A) a beer retailer; or

175 (B) an event permittee; or

176 (ii) a brewery manufacturing licensee from selling beer to a person on its

177 manufacturing premises under Subsection 32B-11-503[~~(4)~~](c)(3)(d).

178 (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to

179 sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an

180 out-of-state location directly or indirectly into this state, except as otherwise provided by this

181 title.

182 (7) It is unlawful for a person in this state other than a person described in Subsection

183 (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic  
184 product directly or indirectly to another person in this state, except as otherwise provided by  
185 this title.

186 (8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise  
187 provided by this title.

188 (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

189 (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

190 Section 3. Section **32B-4-417** is amended to read:

191 **32B-4-417. Unlawful possession by licensee or permittee.**

192 Except as authorized by Section **32B-4-415**, other provisions of this title, or the rules of  
193 the commission, a licensee or permittee may not possess, store, or allow consumption of liquor  
194 on [its] the licensee or permittee's premises if the liquor is not purchased from:

195 (1) the department;

196 (2) a state store; [~~or~~]

197 (3) a package agency[~~;~~]; or

198 (4) a beer wholesale licensee, if the liquor is heavy beer or flavored malt beverage.

199 Section 4. Section **32B-4-704** is amended to read:

200 **32B-4-704. Tied house -- Prohibitions.**

201 (1) (a) It is unlawful for an industry member, directly or indirectly, or through an  
202 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from  
203 the department to the exclusion in whole or in part of a product sold or offered for sale by  
204 another person by acquiring or holding an interest in a license with respect to the premises of a  
205 retailer, except when the license is held by a retailer that is completely owned by the industry  
206 member.

207 (b) Interest in a retail license includes an interest acquired by a corporate official,  
208 partner, employee, or other representative of the industry member.

209 (c) An interest in a retail license acquired by a separate corporation in which the  
210 industry member or the industry member's officials hold ownership or are otherwise affiliated  
211 is an interest in a retail license.

212 (d) Less than complete ownership of a retail business by an industry member  
213 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

214 (2) (a) It is unlawful for an industry member, directly or indirectly, or through an  
215 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from  
216 the department to the exclusion in whole or in part of a product sold or offered for sale by  
217 another person by acquiring an interest in real or personal property owned, occupied, or used  
218 by the retailer in the conduct of the retailer's business.

219 (b) For purposes of Subsection (2)(a):

220 (i) "interest" does not include complete ownership of a retail business by an industry  
221 member;

222 (ii) interest in retail property includes an interest acquired by a corporate official,  
223 partner, employee, or other representative of the industry member;

224 (iii) any interest in a retail license acquired by a separate corporation in which the  
225 industry member or its officials hold ownership or are otherwise affiliated is an interest in the  
226 retailer's property;

227 (iv) less than complete ownership of a retail business by an industry member  
228 constitutes an interest in retail property;

229 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry  
230 member constitutes an interest in the retailer's property; and

231 (vi) the renting of display space by an industry member at a retail establishment  
232 constitutes an interest in the retailer's property.

233 (3) (a) Subject to Section [32B-4-705](#), it is unlawful for an industry member, directly or  
234 indirectly, or through an affiliate, to induce a retailer to purchase an alcoholic product from the  
235 industry member or from the department to the exclusion in whole or in part of a product sold  
236 or offered for sale by another person by furnishing, giving, renting, lending, or selling to the  
237 retailer equipment, a fixture, a sign, supplies, money, a service, or other thing of value.

238 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

239 (A) furnishing a thing of value to a third party when the benefit resulting from the thing  
240 of value flows to an individual retailer; and

241 (B) making a payment for advertising to a retailer association or a display company  
242 when the resulting benefits flow to an individual retailer.

243 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

244 (A) the thing of value is furnished to a retailer by the third party without the knowledge



245 or intent of the industry member; or

246 (B) the industry member does not reasonably foresee that the thing of value would be  
247 furnished to a retailer.

248 (c) Anything that may lawfully be furnished, given, rented, lent, or sold by industry  
249 members to retailers under Section 32B-4-705 may be furnished directly by a third party to a  
250 retailer.

251 (d) (i) A transaction in which equipment is sold to a retailer by an industry member,  
252 except as provided in Section 32B-4-705, is the selling of equipment within the meaning of  
253 Subsection (3)(a) regardless of how the equipment is sold.

254 (ii) The negotiation by an industry member of a special price to a retailer for equipment  
255 from an equipment company is the furnishing of a thing of value within the meaning of  
256 Subsection (3)(a).

257 (e) The furnishing of free warehousing by delaying delivery of an alcoholic product  
258 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,  
259 delaying final delivery of products beyond the close of the period of time for which credit is  
260 lawfully extended, is the furnishing of a service or thing of value within the meaning of  
261 Subsection (3)(a).

262 (f) A financial, legal, administrative, or influential assistance given a retailer by an  
263 industry member in the retailer's acquisition of the retailer's license is the furnishing of a  
264 service or thing of value within the meaning of Subsection (3)(a).

265 (4) It is unlawful for an industry member, directly or indirectly, or through an affiliate,  
266 to induce a retailer to purchase an alcoholic product from the industry member or from the  
267 department to the exclusion in whole or in part of a product sold or offered for sale by another  
268 person by paying or crediting the retailer for an advertising, display, or distribution service:

269 (a) as defined in and to the extent restricted by 27 C.F.R. Sec. 6.51 through 6.56; and

270 (b) subject to the exceptions:

271 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

272 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

273 (5) It is unlawful for an industry member, directly or indirectly, or through an affiliate,  
274 to induce a retailer to purchase an alcoholic product from the industry member or from the  
275 department to the exclusion in whole or in part of a product sold or offered for sale by another

276 person by guaranteeing a loan or the repayment of a financial obligation of the retailer.

277 (6) (a) It is unlawful for an industry member, directly or indirectly, or through an  
278 affiliate, to induce a retailer to purchase beer from the industry member to the exclusion in  
279 whole or in part of a beer product sold or offered for sale by another person by extending to a  
280 retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal  
281 discharge from all indebtedness arising from the transaction by the retailer paying cash or its  
282 equivalent, unless:

283 (i) beer purchased or delivered during the first 15 days of any month is paid for in cash  
284 or its equivalent on or before the 25th day of the same month; and

285 (ii) beer purchased or delivered after the 15th day of any month is paid for in cash or its  
286 equivalent on or before the 10th day of the next succeeding month.

287 (b) A first party in-state check is considered cash payment if the check is:

288 (i) honored on presentment; and

289 (ii) received under the terms prescribed in Subsection (6)(a).

290 (c) An extension of credit for product purchased by an industry member to a retailer  
291 whose account is in arrears does not constitute a violation of Subsection (6)(a) if the retailer  
292 pays in advance or on delivery an amount equal to or greater than the value of each order,  
293 regardless of the manner in which the industry member applies the payment in [its] the industry  
294 member's records.

295 (7) (a) It is unlawful for an industry member, directly or indirectly, or through an  
296 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from  
297 the department to the exclusion in whole or in part of a product sold or offered for sale by  
298 another person by requiring:

299 (i) the department to take and dispose of a certain quota of a product; or

300 (ii) a [beer] retailer to take and dispose of a certain quota of a [beer] product.

301 (b) (i) It is an unlawful means to induce to require:

302 (A) the department to purchase one product in order to purchase another product; or

303 (B) a [beer] retailer to purchase one [beer] product in order to purchase another [beer]  
304 product.

305 (ii) This Subsection (7)(b) includes:

306 (A) the requirement to take a minimum quantity of a product in standard packaging in

307 order to obtain the same product in some type of premium container such as:

308 (I) a distinctive decanter; or

309 (II) a wooden or tin box; or

310 (B) combination sales if one or more products may be purchased only in combination

311 with another product and not individually.

312 (c) This Subsection (7) does not preclude the selling, at a special combination price, of  
313 two or more kinds or brands of products so long as the department or [beer] retailer:

314 (i) has the option of purchasing either product at the usual price; and

315 (ii) is not required to purchase a product the department or [beer] retailer does not  
316 want.

317 (d) An industry member may package and distribute an alcoholic product in  
318 combination with other nonalcoholic items.

319 (e) A combination package shall be designed to be delivered intact to the consumer and  
320 the additional cost incurred by the industry member shall be included in the cost to the  
321 department or [beer] retailer.

322 Section 5. Section **32B-5-303** is amended to read:

323 **32B-5-303. Purchase and storage of an alcoholic product by a retail licensee.**

324 (1) (a) A retail licensee may not purchase liquor except:

325 (i) from a state store or package agency[-]; or

326 (ii) from a beer wholesale licensee, if the liquor is heavy beer or flavored malt

327 beverage.

328 (b) A retail licensee may transport liquor purchased from a state store or package  
329 agency from the place of purchase to the licensed premises.

330 (c) A retail licensee shall pay for liquor in accordance with rules established by the  
331 commission.

332 (2) (a) [(†)] A retail licensee may not purchase, acquire, possess for the purpose of  
333 resale, or sell beer except beer that the retail licensee purchases from:

334 [(A)] (i) a beer wholesaler licensee; or

335 [(B)] (ii) a small brewer that manufactures the beer.

336 [(††)] (b) Violation of [this] Subsection (2)(a) is a class A misdemeanor.

337 [(b)-(†)] (3) (a) If a retail licensee purchases beer [~~under Subsection (2)(a)~~], heavy beer,

338 or flavored malt beverage from a beer wholesaler licensee, the retail licensee shall purchase  
339 beer only from a beer, heavy beer, or flavored malt beverage wholesaler licensee who is  
340 designated by the manufacturer to sell beer, heavy beer, or flavored malt beverage in the  
341 geographical area in which the retail licensee is located, unless an alternate wholesaler is  
342 authorized by the department to sell to the retail licensee as provided in Section [32B-13-301](#).

343 ~~[(ii)]~~ (b) Violation of Subsection ~~[(2)(b)]~~ [\(3\)\(a\)](#) is a class B misdemeanor.

344 ~~[(3)]~~ [\(4\)](#) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic  
345 product in a place other than as designated in the retail licensee's application, unless the retail  
346 licensee first applies for and receives approval from the department for a change of location  
347 within the licensed premises.

348 ~~[(4)]~~ [\(5\)](#) A liquor storage area shall remain locked at all times other than those hours  
349 and days when liquor sales are authorized by law.

350 Section 6. Section [32B-6-205.3](#) is amended to read:

351 **[32B-6-205.3. Transition process for full-service restaurant licensees.](#)**

352 (1) For a full-service restaurant license issued on or after July 1, 2017, the full-service  
353 restaurant licensee shall comply with the provisions of Section [32B-6-205.2](#).

354 (2) For a full-service restaurant license issued before July 1, 2017, before the  
355 full-service restaurant licensee changes the full-service restaurant licensee's approved location  
356 for storage, dispensing, or consumption to comply with the provisions of Section [32B-6-205.2](#),  
357 the full-service restaurant licensee shall submit an application for approval to the department in  
358 accordance with Subsection [32B-5-303](#)~~[(3)]~~[\(4\)](#).

359 (3) (a) Except as provided in Subsection (4), a person who holds a full-service  
360 restaurant license issued before July 1, 2017, shall comply with the provisions of Section  
361 [32B-6-205.2](#) on or before July 1, 2018.

362 (b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply  
363 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant  
364 licensee's approved location for storage, dispensing, or consumption:

365 (i) may submit an application for approval described in Subsection (2) on or after May  
366 9, 2017; and

367 (ii) shall submit an application for approval described in Subsection (2) on or before  
368 May 1, 2018.

369 (c) If a full-service restaurant licensee described in Subsection (3)(a) submits an  
370 application for approval described in Subsection (2) on May 9, 2017, the department shall take  
371 action on the application on or before July 1, 2017.

372 (4) (a) A person who holds a full-service restaurant license issued before July 1, 2017,  
373 and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-205.2  
374 on or before the earlier of:

375 (i) July 1, 2022;

376 (ii) the date on which the full-service restaurant licensee remodels, as defined by  
377 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
378 Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining  
379 area; or

380 (iii) the date on which the full-service restaurant licensee experiences a change of  
381 ownership described in Subsection 32B-8a-202(1).

382 (b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply  
383 with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant  
384 licensee's approved location for storage, dispensing, or consumption:

385 (i) may submit an application for approval described in Subsection (2) on or after May  
386 9, 2017; and

387 (ii) shall submit an application for approval described in Subsection (2) on or before  
388 May 1, 2022.

389 Section 7. Section 32B-6-305.3 is amended to read:

390 **32B-6-305.3. Transition process for limited-service restaurant licensees.**

391 (1) For a limited-service restaurant license issued on or after July 1, 2017, the  
392 limited-service restaurant licensee shall comply with the provisions of Section 32B-6-305.2.

393 (2) For a limited-service restaurant license issued before July 1, 2017, before the  
394 limited-service restaurant licensee changes the limited-service restaurant licensee's approved  
395 location for storage, dispensing, or consumption to comply with the provisions of Section  
396 32B-6-305.2, the limited-service restaurant licensee shall submit an application for approval to  
397 the department in accordance with Subsection 32B-5-303~~(3)~~(4).

398 (3) (a) Except as provided in Subsection (4), a person who holds a limited-service  
399 restaurant license issued before July 1, 2017, shall comply with the provisions of Section

400 [32B-6-305.2](#) on or before July 1, 2018.

401 (b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot  
402 comply with the provisions of Section [32B-6-305.2](#) without a change to the limited-service  
403 restaurant licensee's approved location for storage, dispensing, or consumption:

404 (i) may submit an application for approval described in Subsection (2) on or after May  
405 9, 2017; and

406 (ii) shall submit an application for approval described in Subsection (2) on or before  
407 May 1, 2018.

408 (c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an  
409 application for approval described in Subsection (2) on May 9, 2017, the department shall take  
410 action on the application on or before July 1, 2017.

411 (4) (a) A person who holds a limited-service restaurant license issued before July 1,  
412 2017, and has a grandfathered bar structure shall comply with the provisions of Section  
413 [32B-6-305.2](#) on or before the earlier of:

414 (i) July 1, 2022;

415 (ii) the date on which the limited-service restaurant licensee remodels, as defined by  
416 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
417 Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining  
418 area; or

419 (iii) the date on which the limited-service restaurant licensee experiences a change of  
420 ownership described in Subsection [32B-8a-202\(1\)](#).

421 (b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot  
422 comply with the provisions of Section [32B-6-305.2](#) without a change to the limited-service  
423 restaurant licensee's approved location for storage, dispensing, or consumption:

424 (i) may submit an application for approval described in Subsection (2) on or after May  
425 9, 2017; and

426 (ii) shall submit an application for approval described in Subsection (2) on or before  
427 May 1, 2022.

428 Section 8. Section [32B-6-404.1](#) is amended to read:

429 **[32B-6-404.1. Transition from dining club license to full-service restaurant license.](#)**

430 (1) As used in this section:

431 (a) "Converted full-service restaurant licensee" means a dining club licensee that  
432 converts to a full-service restaurant licensee on or before July 1, 2018, in accordance with  
433 Subsection 32B-6-404(7).

434 (b) "Grandfathered bar structure" means the same as that term is defined in Section  
435 32B-6-202.

436 (2) (a) Except as provided in Subsection (2)(c) and subject to the provisions of this  
437 section, a converted full-service restaurant licensee shall operate under the provisions that  
438 govern a full-service restaurant licensee that has a grandfathered bar structure.

439 (b) For purposes of applying the provisions that govern a full-service restaurant  
440 licensee with a grandfathered bar structure, a converted full-service restaurant licensee's bar  
441 structure is considered a grandfathered bar structure.

442 (c) The provisions of Section 32B-6-205.3 do not apply to a converted full-service  
443 restaurant licensee.

444 (3) (a) A converted full-service restaurant licensee shall comply with the provisions of  
445 Section 32B-6-205.2 on or before the earlier of:

446 (i) July 1, 2022;

447 (ii) the date on which the converted full-service restaurant licensee remodels, as  
448 defined by commission rule made in accordance with Title 63G, Chapter 3, Utah  
449 Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or  
450 dining area; or

451 (iii) the date on which the converted full-service restaurant licensee experiences a  
452 change of ownership described in Subsection 32B-8a-202(1).

453 (b) Before a converted full-service restaurant licensee changes the converted  
454 full-service restaurant licensee's approved location for storage, dispensing, or consumption to  
455 comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant  
456 licensee shall submit an application for approval to the department in accordance with  
457 Subsection 32B-5-303[~~(3)~~](4).

458 (c) A converted full-service restaurant licensee that cannot comply with the provisions  
459 of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's  
460 approved location for storage, dispensing, or consumption shall submit an application for  
461 approval described in Subsection (3)(b) on or before May 1, 2022.

462 (4) (a) Notwithstanding any provision to the contrary, a converted full-service  
463 restaurant licensee shall maintain at least the following percentage of the converted full-service  
464 restaurant licensee's total restaurant business from the sale of food:

465 (i) beginning the day on which the licensee becomes a converted full-service restaurant  
466 licensee, and ending June 30, 2019, 64%;

467 (ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and

468 (iii) on and after July 1, 2021, 70%.

469 (b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's  
470 restaurant business from the sale of food does not include:

471 (i) mix for an alcoholic product; or

472 (ii) a service charge.

473 Section 9. Section **32B-6-604** is amended to read:

474 **32B-6-604. Specific licensing requirements for an on-premise banquet license.**

475 (1) To obtain an on-premise banquet license a person shall comply with Chapter 5, Part  
476 2, Retail Licensing Process.

477 (2) (a) An on-premise banquet license expires on October 31 of each year.

478 (b) To renew a person's on-premise banquet license, a person shall comply with the  
479 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

480 (3) (a) The nonrefundable application fee for an on-premise banquet license is \$300.

481 (b) The initial license fee for an on-premise banquet license is \$750.

482 (c) The renewal fee for an on-premise banquet license is \$750.

483 (4) The bond amount required for an on-premise banquet license is the penal sum of  
484 \$10,000.

485 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency or  
486 political subdivision of the state it is not required to:

487 (a) pay an application fee, initial license fee, or renewal fee;

488 (b) obtain the written consent of the local authority;

489 (c) submit a copy of the applicant's current business license; or

490 (d) post a bond as specified by Section [32B-5-204](#).

491 (6) Notwithstanding Subsection [32B-5-303](#)~~(3)~~(4), the department may approve an  
492 additional location in or on the licensed premises of an on-premise banquet licensee from



493 which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the  
494 consumption of an alcoholic product that is not included in its original application only:

- 495 (a) upon proper application by an on-premise banquet licensee; and  
496 (b) in accordance with guidelines approved by the commission.

497 Section 10. Section **32B-6-905.2** is amended to read:

498 **32B-6-905.2. Transition process for beer-only restaurant licensees.**

499 (1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only  
500 restaurant licensee shall comply with the provisions of Section **32B-6-905.1**.

501 (2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only  
502 restaurant licensee changes the beer-only restaurant licensee's approved location for storage,  
503 dispensing, or consumption to comply with the provisions of Section **32B-6-905.1**, the  
504 beer-only restaurant licensee shall submit an application for approval to the department in  
505 accordance with Subsection **32B-5-303**~~(3)~~**(4)**.

506 (3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant  
507 license issued before July 1, 2017, shall comply with the provisions of Section **32B-6-905.1** on  
508 or before July 1, 2018.

509 (b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply  
510 with the provisions of Section **32B-6-905.1** without a change to the beer-only restaurant  
511 licensee's approved location for storage, dispensing, or consumption:

512 (i) may submit an application for approval described in Subsection (2) on or after May  
513 9, 2017; and

514 (ii) shall submit an application for approval described in Subsection (2) on or before  
515 May 1, 2018.

516 (c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an  
517 application for approval described in Subsection (2) on May 9, 2017, the department shall take  
518 action on the application on or before July 1, 2017.

519 (4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017,  
520 and has a grandfathered bar structure shall comply with the provisions of Section **32B-6-905.1**  
521 on or before the earlier of:

522 (i) July 1, 2022;

523 (ii) the date on which the beer-only restaurant licensee remodels, as defined by

524 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
525 Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area;  
526 or

527 (iii) the date on which the beer-only restaurant licensee experiences a change of  
528 ownership described in Subsection 32B-8a-202(1).

529 (b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply  
530 with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant  
531 licensee's approved location for storage, dispensing, or consumption:

532 (i) may submit an application for approval described in Subsection (2) on or after May  
533 9, 2017; and

534 (ii) shall submit an application for approval described in Subsection (2) on or before  
535 May 1, 2022.

536 Section 11. Section 32B-10-304 is amended to read:

537 **32B-10-304. Specific operational requirements for a public service permit.**

538 (1) (a) In addition to complying with Section 32B-10-206, a public service permittee  
539 and staff of the public service permittee shall comply with this section.

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

542 (i) a public service permittee;

543 (ii) individual staff of a public service permittee; or

544 (iii) both a public service permittee and staff of the public service permittee.

545 (2) (a) A public service permittee whose public conveyances operate on an interstate  
546 basis may do the following:

547 (i) purchase an alcoholic product outside of the state;

548 (ii) bring an alcoholic product purchased outside of the state into the state; and

549 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state  
550 to a passenger traveling on the public service permittee's public conveyance for consumption  
551 while en route on the public conveyance.

552 (b) A public service permittee whose public conveyance operates solely within the  
553 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's  
554 public conveyance for consumption while en route on the public conveyance, shall purchase:

555 (i) except as provided in Subsection (2)(b)(ii), liquor from a state store or package  
556 agency; and

557 (ii) beer, heavy beer, or flavored malt beverage from a beer wholesaler licensee.

558 (3) (a) A public service permittee may establish a hospitality room in which an  
559 alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

560 (i) the room is located within a depot, terminal, or similar facility adjacent to and  
561 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;

562 (ii) the room is completely enclosed and the interior is not visible to the public;

563 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a  
564 person:

565 (A) then in transit using the host company's airline, railroad, bus line, or other public  
566 conveyance; and

567 (B) holding a valid boarding pass or similar travel document issued by the host  
568 company; and

569 (iv) (A) except as provided in Subsection (3)(a)(iv)(B), liquor is purchased from:

570 (I) a state store; or

571 (II) a package agency; and

572 (B) beer, heavy beer, and flavored malt beverage is purchased from a beer wholesaler  
573 licensee.

574 (b) (i) A public service permittee operating a hospitality room shall display in a  
575 prominent place in the hospitality room, a sign in large letters that consists of text in the  
576 following order:

577 (A) a header that reads: "WARNING";

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

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

582 (D) a header that reads: "WARNING"; and

583 (E) a warning statement that reads: "Driving under the influence of alcohol or drugs is  
584 a serious crime that is prosecuted aggressively in Utah."

585 (ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a

586 different font style than the text described in Subsections (3)(b)(i)(D) and (E).

587 (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the  
588 same font size.

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

591 (c) A hospitality room shall be operated in accordance with this chapter and rules  
592 adopted by the commission.

593 Section 12. Section **32B-11-201** is amended to read:

594 **32B-11-201. Commission's power to issue a manufacturing license -- Certificates**  
595 **of approval.**

596 (1) (a) Except as provided in Section **32B-11-202**, before a person may manufacture an  
597 alcoholic product in this state, the person shall obtain an alcoholic product manufacturing  
598 license issued by the commission in accordance with this part.

599 (b) A separate license is required for each place of storage, sale, and manufacture of an  
600 alcoholic product.

601 (c) A violation of this Subsection (1) is a class B misdemeanor.

602 (2) The commission may issue an alcoholic product manufacturing license to a  
603 manufacturer whose business is located in this state for the storage, sale, and manufacture of an  
604 alcoholic product for each type of manufacturing license provided by this chapter.

605 (3) The types of manufacturing licenses issued under this chapter are known as:

- 606 (a) a winery manufacturing license;
- 607 (b) a distillery manufacturing license; and
- 608 (c) a brewery manufacturing license.

609 (4) (a) A brewer located outside the state is not required to be licensed under this  
610 chapter.

611 (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from  
612 the department before selling or delivering:

613 (i) beer, heavy beer, or flavored malt beverage to a beer wholesaler licensee in this  
614 state; or

615 [~~(ii) a flavored malt beverage to;~~]

616 [~~(A) the department; or~~]

617           ~~[(B) a military installation; or]~~  
618           ~~[(iii)]~~ (ii) if a small brewer, beer to one of the following in the state:  
619           (A) a beer wholesaler licensee;  
620           (B) a beer retailer; or  
621           (C) an event permittee.  
622           (c) To obtain a certificate of approval, a brewer shall submit to the department:  
623           (i) a written application in a form prescribed by the department;  
624           (ii) a nonrefundable \$75 application fee;  
625           (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of  
626 approval is not issued;  
627           (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau  
628 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt  
629 beverage; and  
630           (v) any other information the commission or department may require.  
631           (d) (i) One of the following shall sign and verify a written application under this  
632 Subsection (4) by oath or affirmation:  
633           (A) a partner if the brewer is a partnership; or  
634           (B) an executive officer, manager, or person specifically authorized by a corporation or  
635 limited liability company to sign the application.  
636           (ii) A brewer filing an application shall attach to the application written evidence of the  
637 authority of the person described in Subsection (4)(d)(i) to sign the application.  
638           (e) (i) A certificate of approval under this Subsection (4) expires on December 31 of  
639 each year.  
640           (ii) A brewer desiring to renew ~~[its]~~ the brewer's certificate of approval shall submit to  
641 the department by no later than November 30 of the year the certificate of approval expires:  
642           (A) a completed renewal application in the form prescribed by the department; and  
643           (B) a renewal fee of \$250.  
644           (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the  
645 certificate of approval effective on the date the existing certificate of approval expires.  
646           (5) (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is  
647 not required to be licensed under this title shall obtain a certificate of approval from the

648 department before selling or delivering[~~:(i)~~] beer, heavy beer, or flavored malt beverage to a  
649 beer wholesaler licensee in this state[~~;-or~~].

650 [~~(ii) heavy beer or a flavored malt beverage to:~~]

651 [~~(A) the department; or~~]

652 [~~(B) a military installation.~~]

653 (b) To obtain a certificate of approval, an importer or supplier described in Subsection  
654 (5)(a) shall submit to the department:

655 (i) a written application in a form prescribed by the department;

656 (ii) a nonrefundable \$75 application fee;

657 (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of  
658 approval is not issued;

659 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau  
660 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt  
661 beverage; and

662 (v) any other information the commission or department may require.

663 (c) (i) One of the following shall sign and verify a written application under this  
664 Subsection (5) by oath or affirmation:

665 (A) a partner if the importer or supplier is a partnership; or

666 (B) an executive officer, manager, or person specifically authorized by a corporation or  
667 limited liability company to sign the application.

668 (ii) An importer or supplier filing an application under this Subsection (5) shall attach  
669 to the application written evidence of the authority of the person described in Subsection  
670 (5)(c)(i) to sign the application.

671 (d) (i) A certificate of approval under this Subsection (5) expires on December 31 of  
672 each year.

673 (ii) An importer or supplier desiring to renew [~~its~~] the importer or supplier's certificate  
674 of approval shall submit to the department by no later than November 30 of the year the  
675 certificate of approval expires:

676 (A) a completed renewal application in the form prescribed by the department; and

677 (B) a renewal fee of \$250.

678 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the

679 certificate of approval effective on the date the existing certificate of approval expires.

680 (6) (a) [~~Subject to~~] Except as provided in Subsection (7), a brewer, importer, or  
681 supplier required to hold a certificate of approval under this section may not distribute beer,  
682 heavy beer, or flavored malt beverage in this state except under a written agreement with a beer  
683 wholesaler licensee in this state.

684 (b) An agreement described in Subsection (6)(a) shall:

685 (i) create a restricted exclusive sales territory that is mutually agreed upon by the  
686 persons entering into the agreement;

687 (ii) designate the one or more brands that may be distributed in the sales territory; and

688 (iii) set forth the exact geographical area of the sales territory.

689 (c) A brewer, importer [~~of beer~~], or supplier [~~of beer~~] may have more than one  
690 agreement described in this Subsection (6) if each brand of the brewer, importer, or supplier  
691 distributed in the state is covered by one exclusive sales territory.

692 (d) A brewer, importer [~~of beer~~], or supplier [~~of beer~~] may not enter into an agreement  
693 with more than one beer wholesaler licensee to distribute the same brand of beer, heavy beer,  
694 or flavored malt beverage in the same sales territory or any portion of the sales territory.

695 (7) A small brewer is not subject to the requirements of Subsection (6).

696 Section 13. Section **32B-11-208** is amended to read:

697 **32B-11-208. General operational requirements for manufacturing license.**

698 (1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply  
699 with this title and the rules of the commission, including the relevant part of this chapter  
700 applicable to the type of manufacturing license held by the manufacturing licensee.

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

703 (i) a manufacturing licensee;

704 (ii) individual staff of a manufacturing licensee; or

705 (iii) a manufacturing licensee and staff of the manufacturing licensee.

706 (2) A manufacturing licensee shall prominently display the manufacturing license on  
707 the licensed premises.

708 (3) (a) A manufacturing licensee shall make and maintain the records required by the  
709 department.

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

712 (4) [A] Unless the liquor is heavy beer or flavored malt beverage, a manufacturing  
713 licensee may not sell liquor within the state except to:

- 714 (a) the department; or
- 715 (b) a military installation.

716 (5) A manufacturing license may not be transferred from one location to another  
717 location, without prior written approval of the commission.

718 (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give,  
719 or attempt in any way to dispose of the license to another person, whether for monetary gain or  
720 not.

721 (b) A manufacturing license has no monetary value for any type of disposition.

722 (7) A manufacturing licensee may not advertise [~~its~~] the licensee's product in violation  
723 of this title or any other federal or state law, except that nothing in this title prohibits the  
724 advertising or solicitation of an order for industrial alcohol from a holder of a special use  
725 permit.

726 (8) A manufacturing licensee shall from time to time, on request of the department,  
727 furnish for analytical purposes a sample of the alcoholic product that the manufacturing  
728 licensee has:

- 729 (a) for sale; or
- 730 (b) in the course of manufacture for sale in this state.

731 (9) The commission may prescribe by policy or rule, consistent with this title, the  
732 general operational requirements of a manufacturing licensee relating to:

- 733 (a) physical facilities;
- 734 (b) conditions of storage, sale, or manufacture of an alcoholic product;
- 735 (c) storage and sales quantity limitations; and
- 736 (d) other matters considered appropriate by the commission.

737 Section 14. Section 32B-11-210 is amended to read:

738 **32B-11-210. Tasting provided by manufacturing licensee.**

739 (1) As used in this section:

740 (a) "Parcel" means the same identifiable contiguous unit of property that is treated as



741 separate for valuation or zoning purposes and includes an improvement on that unit of  
742 property.

743 (b) "Taste" means an amount of an alcoholic product provided by a manufacturing  
744 licensee for consumption under this section.

745 (2) A manufacturing licensee may provide for a tasting in accordance with this section.

746 (3) Before conducting a tasting, the manufacturing licensee shall provide the  
747 department:

748 (a) evidence of proximity to any community location, with proximity requirements  
749 being governed by Section [32B-1-202](#) as if the manufacturing licensee were a retail licensee;

750 (b) a floor plan, and boundary map where applicable, of the premises of the  
751 manufacturing licensee, including any:

752 (i) consumption area; and

753 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic  
754 product to be tasted;

755 (c) evidence that the manufacturing licensee is carrying public liability insurance in an  
756 amount and form satisfactory to the department;

757 (d) evidence that the manufacturing licensee is carrying dramshop insurance coverage  
758 in an amount and form satisfactory to the department; and

759 (e) any other information the commission or department may require.

760 (4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day  
761 during the period that:

762 (a) begins at midnight; and

763 (b) ends at 10:59 a.m.

764 (5) A person who serves a taste on behalf of the manufacturing licensee shall complete  
765 an alcohol training and education seminar as if the person were employed by a retail licensee.

766 (6) (a) A manufacturing licensee shall establish a distinct area for consumption of a  
767 taste outside the view of minors on the licensed premises and in which minors are not allowed  
768 during the time period when tasting occurs.

769 (b) The distinct area for consumption for a taste established under this Subsection (6)  
770 shall be in the same building as where the manufacturing licensee produces alcoholic product,  
771 in a building on the same parcel as the building where the manufacturing licensee produces

772 alcoholic product, or in a patio or similar area immediately adjacent to a building described in  
773 this Subsection (6)(b).

774 (7) (a) A manufacturing licensee shall have substantial food available that is served on  
775 the licensed premises to an individual consuming a taste.

776 (b) The commission may define what constitutes "substantial food" by rule made in  
777 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the  
778 rule may not require culinary facilities for food preparation that are equivalent to a restaurant or  
779 dining club.

780 (8) A manufacturing licensee shall charge an individual for a taste and may not sell,  
781 offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.

782 (9) (a) A manufacturing licensee may provide a taste in more than one container except  
783 that the aggregate total of the taste in all of the containers may not exceed:

784 (i) 5 ounces of wine for a winery manufacturing licensee;

785 (ii) 2.5 ounces of spirituous liquor for a distillery manufacturing licensee; or

786 (iii) 16 ounces of beer, heavy beer, or flavored malt beverages for a brewery  
787 manufacturing licensee.

788 (b) A manufacturing licensee may not allow an individual to participate in more than  
789 one tasting within a calendar day.

790 (10) A manufacturing licensee may provide a taste of alcoholic product that is:

791 (a) manufactured by the manufacturing licensee; and

792 (b) purchased by the manufacturing licensee from:

793 (i) a state store or package agency; or

794 (ii) for beer, the off-premise retail licensee described in Subsection

795 [32B-11-503](#)~~(4)(c)~~(3)(d).

796 (11) (a) A manufacturing licensee shall display in a prominent place in the location  
797 where tastes are consumed a sign in large letters that consists of text in the following order:

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

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

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

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

804 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
805 serious crime that is prosecuted aggressively in Utah."

806 (b) (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different  
807 font style than the text described in Subsections (11)(a)(iv) and (v).

808 (ii) The warning statements in the sign described in Subsection (11)(a) shall be in the  
809 same font size.

810 (c) The Department of Health shall work with the commission and department to  
811 facilitate consistency in the format of a sign required under this Subsection (11).

812 (12) A manufacturing licensee shall provide educational information as defined by rule  
813 by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
814 Act, as part of the tasting.

815 (13) A manufacturing licensee that conducts tastings under a scientific or educational  
816 use permit issued by the commission as of May 10, 2016, shall comply with this section by no  
817 later than December 31, 2016, in conducting a tasting. In accordance with Subsection  
818 [32B-10-206\(1\)\(c\)](#), effective no later than January 1, 2017, the commission shall take action on  
819 a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

820 Section 15. Section **32B-11-503** is amended to read:

821 **32B-11-503. Specific authority and operational requirements for brewery**  
822 **manufacturing license.**

823 (1) A brewery manufacturing license allows a brewery manufacturing licensee to:

824 (a) store, manufacture, brew, transport, or export beer, heavy beer, ~~and~~ or flavored  
825 malt ~~[beverages]~~ beverage;

826 ~~[(b) sell heavy beer and a flavored malt beverage to:]~~

827 ~~[(i) the department;]~~

828 ~~[(ii) a military installation; or]~~

829 ~~[(iii) an out-of-state customer;]~~

830 ~~[(c)]~~ (b) sell beer, heavy beer, or flavored malt beverage to a beer wholesaler licensee;

831 ~~[(d)]~~ (c) in the case of a small brewer, in accordance with Subsection ~~[(5)]~~ (4), sell beer  
832 manufactured by the small brewer to:

833 (i) a retail licensee;

834 (ii) an off-premise beer retailer; or  
835 (iii) an event permittee; and  
836 ~~[(e)]~~ (d) warehouse on ~~[its]~~ the small brewer's premises an alcoholic product that the  
837 brewery manufacturing licensee manufactures or purchases for manufacturing purposes.  
838 ~~[(2) A brewery manufacturing licensee may not sell the following to a person within~~  
839 ~~the state except the department or a military installation:]~~  
840 ~~[(a) heavy beer; or]~~  
841 ~~[(b) a flavored malt beverage.]~~  
842 ~~[(3)]~~ (2) If considered necessary, the commission or department may require:  
843 (a) the alteration of the plant, equipment, or licensed premises;  
844 (b) the alteration or removal of any unsuitable alcoholic product-making equipment or  
845 material;  
846 (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise  
847 improve the sanitary and working conditions of the plant, licensed premises, and equipment; or  
848 (d) that a record pertaining to the materials and ingredients used in the manufacture of  
849 an alcoholic product be available to the commission or department upon request.  
850 ~~[(4)]~~ (3) (a) A brewery manufacturing licensee may not permit any beer, heavy beer, or  
851 flavored malt beverage to be consumed on the licensed premises, except under the  
852 circumstances described in this Subsection ~~[(4)]~~ (3).  
853 ~~[(a)]~~ (b) A brewery manufacturing licensee may allow ~~[its]~~ the brewery's on-duty staff  
854 to taste the alcoholic product that the brewery manufacturing licensee manufactures on ~~[its]~~ the  
855 brewery's premises without charge, but only in connection with the on-duty staff's duties of  
856 manufacturing the alcoholic product during the manufacturing process and not otherwise.  
857 ~~[(b)]~~ (c) A brewery manufacturing licensee may allow a person who can lawfully  
858 purchase the following for wholesale or retail distribution to consume a bona fide sample of the  
859 brewery manufacturing licensee's product on the licensed premises:  
860 (i) beer;  
861 (ii) heavy beer; or  
862 (iii) a flavored malt beverage.  
863 ~~[(e)]~~ (d) A brewery manufacturing licensee may operate a retail facility that complies  
864 with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority.

865           ~~[(4)]~~ (e) A brewery manufacturing licensee may conduct tastings as provided in Section  
866 32B-11-210.

867           ~~[(5)]~~ (4) (a) A small brewer shall own, lease, or maintain and control a warehouse  
868 facility located in this state for the storage of beer to be sold to a person described in

869 Subsection (1)~~[(4)]~~(c) if the small brewer:

870           (i) (A) (I) is located in this state; and

871           (II) holds a brewery manufacturing license; or

872           (B) (I) is located outside this state; and

873           (II) holds a certificate of approval to sell beer in this state; and

874           (ii) sells beer manufactured by the small brewer directly to a person described in

875 Subsection (1)~~[(4)]~~(c).

876           (b) A small brewer may not sell beer to a person described in Subsection (1)~~[(4)]~~(c)  
877 unless the beer:

878           (i) is manufactured by the small brewer; and

879           (ii) is first placed in the small brewer's warehouse facility in this state.

880           (c) (i) A small brewer warehouse shall make and maintain complete beer importation,  
881 inventory, tax, distribution, sales records, and other records as the department and State Tax  
882 Commission may require.

883           (ii) The records described in Subsection ~~[(5)]~~ (4)(c)(i) are subject to inspection by:

884           (A) the department; and

885           (B) the State Tax Commission.

886           (iii) Section 32B-1-205 applies to a record required to be made or maintained in  
887 accordance with this Subsection ~~[(5)]~~ (4), except that the provision is considered to include an  
888 action described in Section 32B-1-205 made for the purpose of deceiving the State Tax  
889 Commission, or an official or employee of the State Tax Commission.

890           ~~[(6)]~~ (5) Subject to Subsection ~~[(7)]~~ (6):

891           (a) A brewery manufacturing licensee may not sell beer, heavy beer, or flavored malt  
892 beverage in this state except under a written agreement with a beer wholesaler licensee in this  
893 state.

894           (b) An agreement described in Subsection ~~[(6)]~~ (5)(a) shall:

895           (i) create a restricted exclusive sales territory that is mutually agreed upon by the

896 persons entering into the agreement;

897 (ii) designate the one or more brands that may be distributed in the sales territory; and

898 (iii) set forth the exact geographical area of the sales territory.

899 (c) A brewery manufacturing licensee may have more than one agreement described in  
900 this Subsection [~~(6)~~] (5) if each brand of the brewery manufacturing licensee is covered by one  
901 exclusive sales territory.

902 (d) A brewery manufacturing licensee may not enter into an agreement with more than  
903 one beer wholesaler licensee to distribute the same brand of beer, heavy beer, or flavored malt  
904 beverage in the same sales territory or any portion of the sales territory.

905 [~~(7)~~] (6) A small brewer is not subject to the requirements of Subsection [~~(6)~~] (5).

906 Section 16. Section **32B-13-201** is amended to read:

907 **32B-13-201. Commission's power to issue beer wholesaling license.**

908 (1) (a) Before a person may purchase, store, sell, offer for sale, distribute, or import  
909 beer, heavy beer, or flavored malt beverage to a person who sells at retail or acts in any way as  
910 a beer wholesaler, the person shall first obtain a beer wholesaling license issued by the  
911 commission in accordance with this chapter.

912 (b) A violation of Subsection (1)(a) is a class A misdemeanor.

913 (2) (a) The commission may issue a beer wholesaling license for the purchase, storage,  
914 sale, distribution, transportation, and import of beer, heavy beer, or flavored malt beverage.

915 (b) A beer wholesaling license entitles the beer wholesaler licensee to:

916 (i) purchase and import beer into the state;

917 (ii) store beer in an approved warehouse; [~~and~~]

918 (iii) sell and distribute beer directly to:

919 (A) a beer retailer; or

920 (B) an event permittee[~~;~~]; and

921 (iv) if the licensee also holds a liquor warehouse license under Chapter 12, Liquor

922 Warehousing License Act, sell and distribute heavy beer and flavored malt beverage directly to:

923 (A) a retail licensee that sells, or offers for sale, or furnishes liquor; or

924 (B) a single event permittee.

925 (3) Nothing in this section precludes a small brewer from selling beer the small brewer  
926 manufactures directly to:

- 927 (a) a retail licensee;
- 928 (b) an off-premise beer retailer; or
- 929 (c) an event permittee.
- 930 (4) Nothing in this section exempts a person from the requirements of Chapter 12,
- 931 Liquor Warehousing License Act for the warehousing, distribution, and transportation of heavy
- 932 beer and flavored malt beverage.
- 933 Section 17. Section **32B-13-202** is amended to read:
- 934 **32B-13-202. Application requirements for beer wholesaling license.**
- 935 To obtain a beer wholesaling license, a person shall submit to the department:
- 936 (1) a written application in a form prescribed by the department;
- 937 (2) a nonrefundable \$300 application fee;
- 938 (3) an initial license fee of \$2,300 that is refundable if a beer wholesaling license is not
- 939 issued;
- 940 (4) written consent of the local authority;
- 941 (5) a copy of the person's current business license;
- 942 (6) a bond as specified in Section [32B-13-206](#);
- 943 (7) a statement of the brands of beer, heavy beer, and flavored malt beverage the
- 944 person is authorized to sell and distribute;
- 945 (8) a statement of the one or more sales territories in which the person is authorized to
- 946 sell and distribute beer, heavy beer, and flavored malt beverage under an agreement required by
- 947 Section [32B-11-201](#) or [32B-11-503](#);
- 948 (9) evidence that the person is carrying public liability insurance in an amount and
- 949 form satisfactory to the department;
- 950 (10) a signed consent form stating that the beer wholesaling licensee will permit any
- 951 authorized representative of the commission, department, or any law enforcement officer to
- 952 have unrestricted right to enter the licensed premises;
- 953 (11) if the person is an entity, proper verification evidencing that a person who signs
- 954 the application is authorized to sign on behalf of the entity; [~~and~~]
- 955 (12) if the person is authorized to sell and distribute heavy beer or flavored malt
- 956 beverage, evidence that the person has a valid liquor warehousing license under Chapter 12,
- 957 Liquor Warehousing License Act; and

958 [~~(12)~~] (13) any other information that the commission or department may require.

959 Section 18. Section **32B-13-205** is amended to read:

960 **32B-13-205. Commission and department duties before issuing beer wholesaling**  
961 **license.**

962 (1) (a) Before the commission may issue a beer wholesaling license, the department  
963 shall conduct an investigation and may hold public hearings to gather information and make  
964 recommendations to the commission as to whether a beer wholesaling license should be issued.

965 (b) The department shall forward the information and recommendations described in  
966 Subsection (1)(a) to the commission to aid in the commission's determination.

967 (2) Before issuing a beer wholesaling license, the commission shall:

968 (a) determine that the person filed a complete application and is in compliance with  
969 Sections [32B-13-202](#) and [32B-13-204](#);

970 (b) determine that the person is not disqualified under Section [32B-1-304](#);

971 (c) consider the physical characteristics of the licensed premises where it is proposed  
972 that beer be stored by the person, such as:

973 (i) location;

974 (ii) proximity to transportation; and

975 (iii) condition, size, and security of the licensed premises;

976 (d) consider the person's ability to manage and operate a beer wholesaling operation,  
977 including:

978 (i) management experience;

979 (ii) past wholesaling experience;

980 (iii) the brands the person intends to wholesale; and

981 (iv) the means the person intends to use to distribute beer, heavy beer, or flavored malt  
982 beverage; and

983 (e) consider any other factor that the commission considers necessary.

984 Section 19. Section **32B-13-301** is amended to read:

985 **32B-13-301. General operational requirements for beer wholesaling license.**

986 (1) (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall  
987 comply with this title and the rules of the commission.

988 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action



989 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

990 (i) a beer wholesaler licensee;

991 (ii) individual staff of a beer wholesaler licensee; or

992 (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.

993 (2) (a) A beer wholesaler licensee shall make and maintain the records required by the  
994 department.

995 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
996 accordance with this Subsection (2).

997 (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.

998 (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or  
999 attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary  
1000 gain or not, unless it is done:

1001 (a) in accordance with the commission rules; and

1002 (b) after written consent is given by the commission.

1003 (5) A beer wholesaler licensee may not wholesale [a] beer, heavy beer, or flavored malt  
1004 beverage manufactured within the state by a brewer who is not licensed by the commission as a  
1005 brewery manufacturing licensee.

1006 (6) A beer wholesaler licensee may not wholesale [a] beer, heavy beer, or flavored malt  
1007 beverage manufactured out of state by a brewer who has not obtained a certificate of approval  
1008 from the department.

1009 (7) (a) A beer wholesaler licensee may not sell or distribute:

1010 (i) beer to a person within the state except to:

1011 [(i)] (A) a retail licensee;

1012 [(ii)] (B) an off-premise beer retailer; or

1013 [(iii)] (C) an event permittee[-]; or

1014 (ii) heavy beer or flavored malt beverage to a person within the state except to:

1015 (A) a retail licensee that sells, or offers for sale, or furnishes liquor; or

1016 (B) a single event permittee.

1017 (b) A violation of this Subsection (7) is a class A misdemeanor.

1018 (8) (a) A beer wholesaler licensee may not sell or distribute a beer, heavy beer, or  
1019 flavored malt beverage to a person who sells the beer, heavy beer, or flavored malt beverage at

1020 retail outside of a sales territory designated on [~~its~~] the beer wholesaler licensee's application  
1021 and authorized by an agreement described in Subsection 32B-13-202(8), except that if a beer  
1022 wholesaler licensee is temporarily unable to supply a person within the beer wholesaler  
1023 licensee's authorized sales territory, the department may grant temporary authority to another  
1024 beer wholesaler licensee who distributes the same brand in another sales territory to supply:

1025 (i) beer to:

1026 (A) a retail licensee; or

1027 [~~(i)~~] (B) an off-premise beer retailer[-]; or

1028 (ii) heavy beer or flavored malt beverage to a retail licensee that sells, or offers for sale,  
1029 or furnishes liquor.

1030 (b) A violation of this Subsection (8) is a class B misdemeanor.

1031 (9) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a  
1032 warehouse facility located in this state for the receipt, storage, and further distribution of beer  
1033 sold by the beer wholesaler licensee to a person within the state.

1034 (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the  
1035 department, unless the beer is first:

1036 (i) physically removed from the vehicle used to transport the beer from the supplier to  
1037 the beer wholesaler licensee; and

1038 (ii) delivered into the actual possession and control of the beer wholesaler licensee in  
1039 [~~its~~] the beer wholesaler licensee's warehouse or other facility.

1040 (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has  
1041 not had [~~its~~] the alcoholic product's label and packaging approved by the department in  
1042 accordance with Chapter 1, Part 6, Malted Beverage Act.

1043 (11) The commission may prescribe by policy or rule, consistent with this title, the  
1044 general operational requirements of a beer wholesaling licensee relating to:

1045 (a) physical facilities; and

1046 (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution,  
1047 or transportation of beer within the state.

1048 Section 20. Section 32B-14-102 is amended to read:

1049 **32B-14-102. Definitions.**

1050 As used in this chapter:

1051 (1) "Affected party" means a supplier or wholesaler who is a party to a distributorship  
1052 agreement that a terminating party seeks to terminate or not renew.

1053 (2) (a) "Distributorship agreement" means a written agreement between a supplier and  
1054 a wholesaler pursuant to which the wholesaler has the right to purchase, resell, and distribute in  
1055 a designated geographical area any brand of beer, heavy beer, or flavored malt beverage  
1056 manufactured, imported, or distributed by the supplier.

1057 (b) For purposes of this chapter, a separate agreement between a supplier and a  
1058 wholesaler is considered to be part of a distributorship agreement if ~~[it]~~ the separate agreement  
1059 relates to:

1060 (i) the relationship between the supplier and the wholesaler; or

1061 (ii) the duties of either the supplier or the wholesaler under a distributorship agreement.

1062 (3) "Good cause" means the material failure by a supplier or a wholesaler to comply  
1063 with an essential, reasonable, and lawful requirement imposed by a distributorship agreement if  
1064 the failure occurs after the supplier or wholesaler acting in good faith provides notice of  
1065 deficiency and an opportunity to correct in accordance with Part 2, Termination.

1066 (4) "Good faith" is as defined in Subsection [70A-1a-201\(2\)\(t\)](#).

1067 (5) "Retailer" means:

1068 (a) in reference to beer, a beer retailer[-]; or

1069 (b) in reference to heavy beer or flavored malt beverage, a retailer that sells, or offers  
1070 for sale, or furnishes liquor.

1071 (6) "Sales territory" means the geographic area of distribution and sale responsibility  
1072 designated by a distributorship agreement.

1073 (7) "Supplier," notwithstanding Section [32B-1-102](#), means a brewer or other person  
1074 who sells beer, heavy beer, or flavored malt beverage to a wholesaler for resale in this state.

1075 (8) "Terminating party" means a supplier or wholesaler who:

1076 (a) is a party to a distributorship agreement; and

1077 (b) seeks to terminate or not renew the distributorship agreement.

1078 Section 21. Section **32B-14-201** is amended to read:

1079 **32B-14-201. Termination of distributorship agreements.**

1080 (1) Except as provided in Subsection (2) or (3), a supplier or wholesaler may not:

1081 (a) terminate a distributorship agreement; or

- 1082 (b) fail to renew a distributorship agreement.
- 1083 (2) A supplier or wholesaler may take an action prohibited by Subsection (1) if:
- 1084 (a) the supplier or wholesaler has good cause for the action; and
- 1085 (b) if notification is required by Section [32B-14-202](#):
- 1086 (i) the terminating party provides the affected party prior notification in accordance
- 1087 with Section [32B-14-202](#); and
- 1088 (ii) the affected party has not eliminated the reasons specified in the notification as the
- 1089 reasons for the action within 90 days after the ~~[date]~~ day on which the notification is mailed in
- 1090 accordance with Section [32B-14-202](#).
- 1091 (3) A supplier may take an action prohibited by Subsection (1) if:
- 1092 (a) the supplier gives the wholesaler 30 days written notice before termination or
- 1093 nonrenewal;
- 1094 (b) the supplier discontinues production or discontinues distribution throughout the
- 1095 state of all brands of beer, heavy beer, or flavored malt beverage sold by the supplier to the
- 1096 wholesaler; and
- 1097 (c) the termination or nonrenewal does not violate the distributorship agreement.
- 1098 Section 22. Section **32B-14-302** is amended to read:
- 1099 **32B-14-302. Prohibited conduct of supplier.**
- 1100 (1) A supplier may not:
- 1101 (a) induce or coerce, or attempt to induce or coerce, a wholesaler to engage in an illegal
- 1102 act or course of conduct;
- 1103 (b) impose a requirement that is discriminatory by ~~[its]~~ the requirement's terms or in
- 1104 the methods of enforcement as compared to requirements imposed by the supplier on similarly
- 1105 situated wholesalers;
- 1106 (c) prohibit a wholesaler from selling a product of another supplier;
- 1107 (d) fix or maintain the price at which a wholesaler may resell beer, heavy beer, or
- 1108 flavored malt beverage;
- 1109 (e) fail to execute with each wholesaler of ~~[its]~~ the supplier's brands a written
- 1110 distributorship agreement;
- 1111 (f) require a wholesaler to accept delivery of beer, heavy beer, or flavored malt
- 1112 beverage or any other item that is not voluntarily ordered by the wholesaler;

1113 (g) restrict or inhibit, directly or indirectly, the right of a wholesaler to participate in an  
1114 organization representing interests of wholesalers for a lawful purpose;

1115 (h) require a wholesaler to participate in or contribute to a local, regional, or national  
1116 advertising fund or other promotional activity that:

1117 (i) is not used for an advertising or promotional activity in the wholesaler's sales  
1118 territory; or

1119 (ii) would require a contribution by the wholesaler in excess of the amounts specified  
1120 in the distributorship agreement;

1121 (i) retaliate against a wholesaler that files a complaint with the department or the  
1122 applicable federal agency regarding an alleged violation by the supplier of a state or federal  
1123 statute or administrative rule;

1124 (j) require without good cause a change in the manager of a wholesaler who has  
1125 previously been approved by the supplier;

1126 (k) if a wholesaler changes [its] the wholesaler's approved manager, prohibit the  
1127 change unless the new manager fails to meet the reasonable standards for similarly situated  
1128 wholesalers of the supplier as stated in the distributorship agreement; or

1129 (l) refuse to deliver a beer, heavy beer, or flavored malt beverage product covered by a  
1130 distributorship agreement to the wholesaler:

1131 (i) in a reasonable quantity; and

1132 (ii) within a reasonable time after receipt of the wholesaler's order.

1133 (2) Notwithstanding Subsection (1)(l), the supplier may refuse to deliver a beer, heavy  
1134 beer, or flavored malt beverage product if the refusal is due to:

1135 (a) the wholesaler's failure to pay the supplier pursuant to the distributorship  
1136 agreement;

1137 (b) an unforeseeable event beyond the supplier's control;

1138 (c) a work stoppage or delay due to a strike or labor problem;

1139 (d) a bona fide shortage of materials; or

1140 (e) a freight embargo.

1141 Section 23. Section **32B-14-303** is amended to read:

1142 **32B-14-303. Prohibited conduct of wholesaler.**

1143 (1) A wholesaler may not:

1144 (a) induce or coerce, or attempt to induce or coerce, a retailer to engage in an illegal act  
1145 or course of conduct;

1146 (b) impose a requirement that is discriminatory by [~~its~~] the requirement's terms or in  
1147 the methods of enforcement as compared to requirements imposed by the wholesaler on  
1148 similarly situated retailers;

1149 (c) prohibit a retailer from selling a product of another wholesaler;

1150 (d) fix or maintain the price at which a retailer may resell beer, heavy beer, or flavored  
1151 malt beverage;

1152 (e) require a retailer to accept delivery of beer, heavy beer, or flavored malt beverage or  
1153 any other item that is not voluntarily ordered by the retailer;

1154 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an  
1155 organization representing interests of retailers for a lawful purpose;

1156 (g) require a retailer to participate in or contribute to a local, regional, or national  
1157 advertising fund or other promotional activity;

1158 (h) retaliate against a retailer that files a complaint with the department or the  
1159 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal  
1160 statute or administrative rule; and

1161 (i) refuse to deliver a beer, heavy beer, or flavored malt beverage product carried by the  
1162 wholesaler to a properly licensed retailer who resides within the wholesaler's sales territory:

1163 (i) in a reasonable quantity; and

1164 (ii) within a reasonable time after receipt of the retailer's order.

1165 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver a beer,  
1166 heavy beer, or flavored malt beverage product if the refusal is due to:

1167 (a) the retailer's failure to pay the wholesaler pursuant to Subsection [32B-4-704\(6\)](#);

1168 (b) an unforeseeable event beyond the wholesaler's control;

1169 (c) a work stoppage or delay due to a strike or labor problem;

1170 (d) a bona fide shortage of materials; or

1171 (e) a freight embargo.

1172 Section 24. Section **59-15-101** is amended to read:

1173 **59-15-101. Tax basis -- Rate.**

1174 (1) As used in this chapter:

- 1175 (a) "Beer" means the same as that term is defined in Section 32B-1-102.
- 1176 (b) "Beer" does not include:
- 1177 (i) heavy beer as defined in Section 32B-1-102; or
- 1178 (ii) flavored malt beverages as defined in Section 32B-1-102.
- 1179 ~~[(+)]~~ (2) (a) A tax is imposed at the rate specified in Subsection ~~[(+)]~~ (2)(b) on all
- 1180 beer~~[, as defined in Section 32B-1-102;]~~ that is imported or manufactured for sale, use, or
- 1181 distribution in this state.
- 1182 (b) The tax described in Subsection ~~[(+)]~~ (2)(a) shall be imposed at a rate of:
- 1183 (i) \$11 per 31-gallon barrel for beer imported or manufactured:
- 1184 (A) before July 1, 2003; and
- 1185 (B) for sale, use, or distribution in this state; and
- 1186 (ii) \$12.80 per 31-gallon barrel for beer imported or manufactured:
- 1187 (A) on or after July 1, 2003; and
- 1188 (B) for sale, use, or distribution in this state.
- 1189 (c) The tax imposed under this Subsection ~~[(+)]~~ (2):
- 1190 (i) shall be imposed at a proportionate rate for:
- 1191 (A) any quantity of beer other than a 31-gallon barrel; or
- 1192 (B) the fractional parts of a 31-gallon barrel; and
- 1193 (ii) may not be imposed more than once on the same beer.
- 1194 ~~[(2)]~~ (3) A tax may not be imposed on beer:
- 1195 (a) sold to the United States and its agencies; or
- 1196 (b) (i) manufactured or imported for sale, use, or distribution outside the state; and
- 1197 (ii) exported from the state.