

- 28 ▶ requires electronic age verification of certain individuals who sit, remain, or
- 29 consume food or beverage in a dispensing area in a restaurant;
- 30 ▶ modifies the application requirements for approval of the label and packaging of a
- 31 malted beverage;
- 32 ▶ modifies the labeling and packaging requirements for certain malted beverages;
- 33 ▶ reduces and modifies the membership of the Alcoholic Beverage Control Advisory
- 34 Board;
- 35 ▶ increases the mark-up on alcoholic beverages;
- 36 ▶ creates two school-based underage drinking prevention programs that are presented
- 37 to students in grades 8 and 10 in the state;
- 38 ▶ requires a presiding officer to consider any aggravating circumstances when
- 39 imposing a fine;
- 40 ▶ provides that each retail licensee shall submit a responsible alcohol service plan to
- 41 the department upon application for or renewal of a retail license;
- 42 ▶ prohibits more than one type of retail license for the same room, unless the licenses
- 43 are:
 - 44 • a restaurant license; and
 - 45 • an on-premise banquet license or reception center license;
- 46 ▶ provides that an individual may not carry a sealed container of an alcoholic
- 47 beverage from the premises of a retail licensee;
- 48 ▶ states that a retail licensee may provide wine service for a bottled wine carried onto
- 49 the licensed premises or purchased at the licensed premises;
- 50 ▶ requires the department to develop the following training programs:
 - 51 • a training program for retail managers and retail owners;
 - 52 • a training program for off-premise retail managers; and
 - 53 • a training program for an individual who commits a violation related to service
 - 54 to an intoxicated individual or a minor;
- 55 ▶ enacts a process for the Department of Public Safety to track violations of each
- 56 retail licensee involving the sale of an alcoholic product to a minor;
- 57 ▶ establishes a flat renewal fee for a full-service restaurant licensee;
- 58 ▶ provides that beginning on July 1, 2017, and no later than July 1, 2018, a restaurant

59 licensee may designate a dispensing area within which:

60 • the restaurant licensee may store and dispense alcoholic product at a dispensing
61 structure;

62 • an individual 21 years of age or older may consume food and beverages; and

63 • except under certain circumstances, a minor may not be present;

64 ▶ removes grandfathered bar structures beginning on July 1, 2018;

65 ▶ extends the hours during which a restaurant licensee may sell, offer for sale, or

66 furnish an alcoholic product on a weekend or a state or federal legal holiday;

67 ▶ modifies the required contents of a beverage tab for restaurant licensees;

68 ▶ provides that a restaurant licensee may sell, offer for sale, or furnish an alcoholic

69 product to a patron only if:

70 • the patron is seated at a table, counter, or dispensing structure; and

71 • the restaurant licensee confirms that the patron intends to order food and

72 consume the food in the same location where the patron is seated;

73 ▶ provides that a restaurant licensee may not transfer, dispense, or serve an alcoholic

74 product from a movable cart;

75 ▶ addresses the retention of certain records for restaurant licensees;

76 ▶ requires a restaurant licensee or a bar licensee to display a sign that states whether

77 the licensee is a restaurant or a bar;

78 ▶ prohibits the commission from issuing or renewing a dining club license on or after

79 July 1, 2017;

80 ▶ provides that effective July 1, 2018, each dining club licensee converts to a

81 full-service restaurant licensee or a bar licensee;

82 ▶ establishes an off-premise beer retailer state license, including an application

83 process, fees, and renewal procedures;

84 ▶ requires an off-premise beer retailer to make and maintain a record of all beer

85 purchased, in accordance with commission rule;

86 ▶ provides that an off-premise beer retailer shall display beer in one or two contiguous

87 locations where beer is the only beverage displayed;

88 ▶ addresses notification to the department if an off-premise beer retailer changes

89 ownership;

- 90 ▶ modifies and repeals certain provisions related to local authority enforcement of
- 91 off-premise beer retailers to correspond with the state enforcement mechanisms
- 92 available under the off-premise beer retailer state license; and
- 93 ▶ makes technical and conforming changes.

94 **Money Appropriated in this Bill:**

95 None

96 **Other Special Clauses:**

97 None

98 **Utah Code Sections Affected:**

99 AMENDS:

- 100 **11-10-1**, as last amended by Laws of Utah 2010, Chapter 276
- 101 **11-10-2**, as last amended by Laws of Utah 1990, Chapter 23
- 102 **26-38-2**, as last amended by Laws of Utah 2012, Chapter 171
- 103 **32B-1-102**, as last amended by Laws of Utah 2016, Chapters 80, 176, and 348
- 104 **32B-1-104**, as enacted by Laws of Utah 2010, Chapter 276
- 105 **32B-1-201**, as last amended by Laws of Utah 2013, Chapter 349
- 106 **32B-1-202**, as last amended by Laws of Utah 2016, Chapter 176
- 107 **32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334
- 108 **32B-1-305**, as last amended by Laws of Utah 2015, Chapter 351
- 109 **32B-1-407**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 110 **32B-1-505**, as last amended by Laws of Utah 2011, Chapter 297
- 111 **32B-1-604**, as enacted by Laws of Utah 2010, Chapter 276
- 112 **32B-1-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 113 **32B-1-606**, as enacted by Laws of Utah 2010, Chapter 276
- 114 **32B-2-202**, as last amended by Laws of Utah 2016, Chapter 80
- 115 **32B-2-210**, as last amended by Laws of Utah 2016, Chapter 158
- 116 **32B-2-304**, as last amended by Laws of Utah 2012, Chapter 357
- 117 **32B-2-306**, as enacted by Laws of Utah 2012, Chapter 388
- 118 **32B-3-102**, as enacted by Laws of Utah 2010, Chapter 276
- 119 **32B-3-202**, as enacted by Laws of Utah 2010, Chapter 276
- 120 **32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276

121 [32B-4-410](#), as last amended by Laws of Utah 2015, Chapter 165
122 [32B-4-415](#), as last amended by Laws of Utah 2016, Chapters 80, 245, and 348
123 [32B-4-501](#), as last amended by Laws of Utah 2016, Chapter 80
124 [32B-5-201](#), as enacted by Laws of Utah 2010, Chapter 276
125 [32B-5-202](#), as enacted by Laws of Utah 2010, Chapter 276
126 [32B-5-307](#), as last amended by Laws of Utah 2016, Chapter 82
127 [32B-5-402](#), as enacted by Laws of Utah 2010, Chapter 276
128 [32B-5-403](#), as last amended by Laws of Utah 2016, Chapter 176
129 [32B-5-404](#), as enacted by Laws of Utah 2010, Chapter 276
130 [32B-6-202](#), as last amended by Laws of Utah 2011, Chapter 334
131 [32B-6-204](#), as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
132 [32B-6-205](#), as last amended by Laws of Utah 2013, Chapter 353
133 [32B-6-302](#), as last amended by Laws of Utah 2011, Chapter 334
134 [32B-6-305](#), as last amended by Laws of Utah 2013, Chapter 353
135 [32B-6-401](#), as enacted by Laws of Utah 2010, Chapter 276
136 [32B-6-403](#), as last amended by Laws of Utah 2016, Chapter 80
137 [32B-6-404](#), as last amended by Laws of Utah 2016, Chapter 348
138 [32B-6-405](#), as last amended by Laws of Utah 2011, Chapters 307 and 334
139 [32B-6-406](#), as last amended by Laws of Utah 2011, Chapter 334
140 [32B-6-406.1](#), as enacted by Laws of Utah 2010, Chapter 276
141 [32B-6-407](#), as last amended by Laws of Utah 2013, Chapter 349
142 [32B-6-408](#), as enacted by Laws of Utah 2010, Chapter 276
143 [32B-6-703](#), as last amended by Laws of Utah 2016, Chapter 82
144 [32B-6-706](#), as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
145 [32B-6-902](#), as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
146 [32B-6-905](#), as last amended by Laws of Utah 2013, Chapter 353
147 [32B-7-202](#), as last amended by Laws of Utah 2011, Chapter 307
148 [32B-8-102](#), as last amended by Laws of Utah 2015, Chapter 258
149 [32B-8-304](#), as last amended by Laws of Utah 2011, Chapters 297 and 334
150 [32B-8a-302](#), as last amended by Laws of Utah 2016, Chapter 82
151 [32B-8b-102](#), as enacted by Laws of Utah 2016, Chapter 80

- 152 **32B-8b-201**, as enacted by Laws of Utah 2016, Chapter 80
- 153 **53-10-305**, as last amended by Laws of Utah 2010, Chapter 276
- 154 **53A-13-102**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 155 **62A-15-401**, as last amended by Laws of Utah 2011, Chapter 334
- 156 **63I-2-232**, as renumbered and amended by Laws of Utah 2008, Chapter 382

157 ENACTS:

- 158 **32B-5-207**, Utah Code Annotated 1953
- 159 **32B-5-405**, Utah Code Annotated 1953
- 160 **32B-5-406**, Utah Code Annotated 1953
- 161 **32B-6-205.2**, Utah Code Annotated 1953
- 162 **32B-6-205.3**, Utah Code Annotated 1953
- 163 **32B-6-305.2**, Utah Code Annotated 1953
- 164 **32B-6-305.3**, Utah Code Annotated 1953
- 165 **32B-6-905.1**, Utah Code Annotated 1953
- 166 **32B-6-905.2**, Utah Code Annotated 1953
- 167 **32B-7-401**, Utah Code Annotated 1953
- 168 **32B-7-402**, Utah Code Annotated 1953
- 169 **32B-7-403**, Utah Code Annotated 1953
- 170 **32B-7-404**, Utah Code Annotated 1953
- 171 **32B-7-405**, Utah Code Annotated 1953

172 RENUMBERS AND AMENDS:

- 173 **32B-7-501**, (Renumbered from 32B-7-305, as enacted by Laws of Utah 2010, Chapter
- 174 276 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 276)

175 REPEALS:

- 176 **32B-6-205.1**, as enacted by Laws of Utah 2010, Chapter 276
- 177 **32B-6-305.1**, as enacted by Laws of Utah 2010, Chapter 276
- 178 **32B-7-301**, as enacted by Laws of Utah 2010, Chapter 276
- 179 **32B-7-302**, as enacted by Laws of Utah 2010, Chapter 276
- 180 **32B-7-303**, as enacted by Laws of Utah 2010, Chapter 276
- 181 **32B-7-304**, as enacted by Laws of Utah 2010, Chapter 276

182

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

184 Section 1. Section **11-10-1** is amended to read:

185 **11-10-1. Business license required -- Authorization for issuance, denial,**
186 **suspension, or revocation by local authority.**

187 (1) As used in this chapter, the following have the meaning set forth in Section
188 **32B-1-102:**

189 (a) "alcoholic product";

190 (b) "~~club~~ bar establishment license";

191 (c) "local authority"; and

192 (d) "restaurant."

193 (2) A person may not operate an association, a restaurant, a bar, or a business similar to
194 a business operated under a ~~club~~ bar establishment license, or other similar business that
195 allows a person to possess or consume an alcoholic product on the premises of the association,
196 restaurant, ~~club~~ bar, or similar business premises without a business license.

197 (3) (a) A local authority may issue a business license to a person who owns or operates
198 an association, restaurant, ~~club~~ bar, or similar business that allows a person to hold, store,
199 possess, or consume an alcoholic product on the premises.

200 (b) A business license issued under this Subsection (3) does not permit a person to
201 hold, store, possess, or consume an alcoholic product on the premises other than as provided in
202 Title 32B, Alcoholic Beverage Control Act.

203 (4) A local authority may suspend or revoke a business license for a violation of Title
204 32B, Alcoholic Beverage Control Act.

205 (5) A local authority shall set policy by written rules that establish criteria and
206 procedures for granting, denying, suspending, or revoking a business license issued under this
207 chapter.

208 (6) A business license issued under this section does not constitute written consent of
209 the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

210 Section 2. Section **11-10-2** is amended to read:

211 **11-10-2. Qualifications of licensee.**

212 (1) A license may not be granted:

213 (a) unless the licensee is of good moral character, over the age of 21 years, and [a

214 citizen of] lawfully present in the United States;

215 (b) to anyone who has been convicted of a felony or misdemeanor involving moral
216 turpitude;

217 (c) to any partnership or association, any member of which lacks any of the
218 qualifications set out in this section; or

219 (d) to any corporation, if any of its directors or officers lacks any qualification set out
220 in this section.

221 (2) The local authority shall, before issuing licenses, satisfy itself by written evidence
222 executed by the applicant that the applicant meets the standards set forth.

223 Section 3. Section **26-38-2** is amended to read:

224 **26-38-2. Definitions.**

225 As used in this chapter:

226 (1) "E-cigarette":

227 (a) means any electronic oral device:

228 (i) that provides a vapor of nicotine or other substance; and

229 (ii) which simulates smoking through its use or through inhalation of the device; and

230 (b) includes an oral device that is:

231 (i) composed of a heating element, battery, or electronic circuit; and

232 (ii) marketed, manufactured, distributed, or sold as:

233 (A) an e-cigarette;

234 (B) e-cigar;

235 (C) e-pipe; or

236 (D) any other product name or descriptor, if the function of the product meets the
237 definition of Subsection (1)(a).

238 (2) "Place of public access" means any enclosed indoor place of business, commerce,
239 banking, financial service, or other service-related activity, whether publicly or privately owned
240 and whether operated for profit or not, to which persons not employed at the place of public
241 access have general and regular access or which the public uses, including:

242 (a) buildings, offices, shops, elevators, or restrooms;

243 (b) means of transportation or common carrier waiting rooms;

244 (c) restaurants, cafes, or cafeterias;

- 245 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 246 (e) shopping malls, retail stores, grocery stores, or arcades;
- 247 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
248 sites, auditoriums, or arenas;
- 249 (g) barber shops, hair salons, or laundromats;
- 250 (h) sports or fitness facilities;
- 251 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
252 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
253 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
254 of these;
- 255 (j) (i) any child care facility or program subject to licensure or certification under this
256 title, including those operated in private homes, when any child cared for under that license is
257 present; and
- 258 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
259 subject to licensure or certification under this title, when any child cared for by the provider,
260 other than the child of the provider, is present;
- 261 (k) public or private elementary or secondary school buildings and educational
262 facilities or the property on which those facilities are located;
- 263 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
264 religious organization when used solely by the organization members or their guests or
265 families;
- 266 (m) any facility rented or leased for private functions from which the general public is
267 excluded and arrangements for the function are under the control of the function sponsor;
- 268 (n) any workplace that is not a place of public access or a publicly owned building or
269 office but has one or more employees who are not owner-operators of the business;
- 270 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
271 stating "no smoking", "thank you for not smoking", or similar statement; and
- 272 (p) a holder of a ~~club~~ bar establishment license, as defined in Section 32B-1-102.
- 273 (3) "Publicly owned building or office" means any enclosed indoor place or portion of
274 a place owned, leased, or rented by any state, county, or municipal government, or by any
275 agency supported by appropriation of, or by contracts or grants from, funds derived from the

276 collection of federal, state, county, or municipal taxes.

277 (4) "Smoking" means:

278 (a) the possession of any lighted or heated tobacco product in any form;

279 (b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine

280 intended for inhalation through a cigar, cigarette, pipe, or hookah;

281 (c) except as provided in Section 26-38-2.6, using an e-cigarette; or

282 (d) using an oral smoking device intended to circumvent the prohibition of smoking in

283 this chapter.

284 Section 4. Section 32B-1-102 is amended to read:

285 **32B-1-102. Definitions.**

286 As used in this title:

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

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

289 (b) that is located at an international airport with a United States Customs office on the

290 premises of the international airport.

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

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

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

294 (a) beer; or

295 (b) liquor.

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

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

298 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

299 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

300 in an amount equal to or greater than .5% of alcohol by volume.

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

302 (c) "Alcoholic product" does not include any of the following common items that

303 otherwise come within the definition of an alcoholic product:

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

305 (ii) vinegar;

306 (iii) cider;

- 307 (iv) essence;
- 308 (v) tincture;
- 309 (vi) food preparation; or
- 310 (vii) an over-the-counter medicine.
- 311 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 312 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 313 (5) "Alcohol training and education seminar" means a seminar that is:
- 314 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 315 (b) described in Section [62A-15-401](#).
- 316 (6) "Banquet" means an event:
- 317 (a) that is held at one or more designated locations approved by the commission in or
- 318 on the premises of a:
 - 319 (i) hotel;
 - 320 (ii) resort facility;
 - 321 (iii) sports center; or
 - 322 (iv) convention center;
- 323 (b) for which there is a contract:
 - 324 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
 - 325 and
 - 326 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
 - 327 provide an alcoholic product at the event; and
 - 328 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 329 [~~(7) (a) "Bar" means a surface or structure:~~]
- 330 [~~(i) at which an alcoholic product is:~~]
- 331 [~~(A) stored; or~~]
- 332 [~~(B) dispensed; or~~]
- 333 [~~(ii) from which an alcoholic product is served.~~]
- 334 [~~(b)~~] (7) "Bar structure" means a surface or structure on a licensed premises if on or at
- 335 any place of the surface or structure an alcoholic product is:
 - 336 [(i)] (a) stored; or
 - 337 [(ii)] (b) dispensed.

338 ~~[(18)]~~ (8) (a) "~~[Club]~~ Bar establishment license" means a license issued in accordance
339 with Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License.

340 (b) "~~[Club]~~ Bar establishment license" includes:

- 341 (i) a dining club license;
342 (ii) an equity ~~[club]~~ license;
343 (iii) a fraternal ~~[club]~~ license; or
344 (iv) a ~~[social club]~~ bar license.

345 ~~[(102)]~~ (9) "~~[Social club]~~ Bar license" means a license issued in accordance with
346 Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club License, that is designated by the~~
347 ~~commission as a social club license]~~ Bar Establishment License.

348 ~~[(8)]~~ (10) (a) Subject to Subsection ~~[(8)]~~ (10)(d), "beer" means a product that:

- 349 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
350 volume or 3.2% by weight; and
351 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

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

- 354 (i) contains alcohol in the percentages described in Subsection ~~[(8)]~~ (10)(a); and
355 (ii) is referred to as:

356 (A) beer;

357 (B) ale;

358 (C) porter;

359 (D) stout;

360 (E) lager; or

361 (F) a malt or malted beverage.

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

363 ~~[(9)]~~ (11) "Beer-only restaurant license" means a license issued in accordance with
364 Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

365 ~~[(10)]~~ (12) "Beer retailer" means a business that:

- 366 (a) ~~[that]~~ is engaged, primarily or incidentally, in the retail sale of beer to a patron,
367 whether for consumption on or off the business premises; and

368 ~~[(b) to whom a license is issued:]~~

369 (b) is licensed as:

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

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

374 [~~(11)~~] (13) "Beer wholesaling license" means a license:

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

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

378 [~~(12)~~] (14) "Billboard" means a public display used to advertise, including:

379 (a) a light device;

380 (b) a painting;

381 (c) a drawing;

382 (d) a poster;

383 (e) a sign;

384 (f) a signboard; or

385 (g) a scoreboard.

386 [~~(13)~~] (15) "Brewer" means a person engaged in manufacturing:

387 (a) beer;

388 (b) heavy beer; or

389 (c) a flavored malt beverage.

390 [~~(14)~~] (16) "Brewery manufacturing license" means a license issued in accordance with
391 Chapter 11, Part 5, Brewery Manufacturing License.

392 [~~(15)~~] (17) "Certificate of approval" means a certificate of approval obtained from the
393 department under Section [32B-11-201](#).

394 [~~(16)~~] (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle
395 provided by a bus company to a group of persons pursuant to a common purpose:

396 (a) under a single contract;

397 (b) at a fixed charge in accordance with the bus company's tariff; and

398 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
399 motor vehicle, and a driver to travel together to one or more specified destinations.

400 [(17)] (19) "Church" means a building:

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

405 [(19)] (20) "Commission" means the Alcoholic Beverage Control Commission created
406 in Section 32B-2-201.

407 [(20)] (21) "Commissioner" means a member of the commission.

408 [(21)] (22) "Community location" means:

- 409 (a) a public or private school;
- 410 (b) a church;
- 411 (c) a public library;
- 412 (d) a public playground; or
- 413 (e) a public park.

414 [(22)] (23) "Community location governing authority" means:

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

419 [(23)] (24) "Container" means a receptacle that contains an alcoholic product,
420 including:

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

424 [(24)] (25) "Convention center" means a facility that is:

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

427 [(25)] (26) (a) [~~Subject to Subsection (25)(b), "counter"~~] "Counter" means a surface or
428 structure in a dining area of a licensed premises where seating is provided to a patron for
429 service of food.

430 (b) "Counter" does not include [~~a surface or structure if on or at any point of the~~]

431 ~~surface or structure an alcoholic product is:] a dispensing structure.~~

432 [~~(i) stored; or]~~

433 [~~(ii) dispensed:]~~

434 [~~(26)~~] (27) "Department" means the Department of Alcoholic Beverage Control created
435 in Section 32B-2-203.

436 [~~(27)~~] (28) "Department compliance officer" means an individual who is:

437 (a) an auditor or inspector; and

438 (b) employed by the department.

439 [~~(28)~~] (29) "Department sample" means liquor that is placed in the possession of the
440 department for testing, analysis, and sampling.

441 [~~(29)~~] (30) "Dining club license" means a license issued in accordance with Chapter 5,
442 Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is designated
443 by the commission as a dining club license.

444 [~~(30)~~] (31) "Director," unless the context requires otherwise, means the director of the
445 department.

446 [~~(31)~~] (32) "Disciplinary proceeding" means an adjudicative proceeding permitted
447 under this title:

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

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

450 [~~(32)~~] (33) (a) Subject to Subsection [~~(32)~~] (33)(b), "dispense" means:

451 (i) drawing of an alcoholic product:

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

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

454 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

455 (ii) using the alcoholic product described in Subsection [~~(32)~~] (33)(a)(i) on the
456 premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a
457 patron of the retail licensee.

458 (b) The definition of "dispense" in this Subsection [~~(32)~~] (33) applies only to:

459 (i) a full-service restaurant license;

460 (ii) a limited-service restaurant license;

461 (iii) a reception center license; and

462 (iv) a beer-only restaurant license.

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

464 (a) where an alcoholic product is stored or dispensed; or

465 (b) from which an alcoholic product is served.

466 [~~33~~] (35) "Distillery manufacturing license" means a license issued in accordance
467 with Chapter 11, Part 4, Distillery Manufacturing License.

468 [~~34~~] (36) "Distressed merchandise" means an alcoholic product in the possession of
469 the department that is saleable, but for some reason is unappealing to the public.

470 [~~35~~] (37) "Educational facility" includes:

471 (a) a nursery school;

472 (b) an infant day care center; and

473 (c) a trade and technical school.

474 [~~36~~] (38) "Equity [~~club~~] license" means a license issued in accordance with Chapter
475 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is
476 designated by the commission as an equity [~~club~~] license.

477 [~~37~~] (39) "Event permit" means:

478 (a) a single event permit; or

479 (b) a temporary beer event permit.

480 [~~38~~] (40) "Exempt license" means a license exempt under Section [32B-1-201](#) from
481 being considered in determining the total number of retail licenses that the commission may
482 issue at any time.

483 [~~39~~] (41) (a) "Flavored malt beverage" means a beverage:

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

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

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

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

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

- 493 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 494 [~~(40)~~] (42) "Fraternal [~~club~~] license" means a license issued in accordance with
495 Chapter 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is
496 designated by the commission as a fraternal [~~club~~] license.
- 497 [~~(41)~~] (43) "Full-service restaurant license" means a license issued in accordance with
498 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 499 [~~(42)~~] (44) (a) "Furnish" means by any means to provide with, supply, or give an
500 individual an alcoholic product, by sale or otherwise.
- 501 (b) "Furnish" includes to:
- 502 (i) serve;
- 503 (ii) deliver; or
- 504 (iii) otherwise make available.
- 505 [~~(43)~~] (45) "Guest" means an individual who meets the requirements of Subsection
506 [32B-6-407\(9\)](#).
- 507 [~~(44)~~] (46) "Health care practitioner" means:
- 508 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 509 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 510 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 511 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
512 Act;
- 513 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
514 Nurse Practice Act;
- 515 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
516 Practice Act;
- 517 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
518 Therapy Practice Act;
- 519 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 520 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
521 Professional Practice Act;
- 522 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 523 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical

524 Practice Act;

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

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

528 [~~45~~] (47) (a) "Heavy beer" means a product that:

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

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

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

532 [~~46~~] (48) "Hotel" is as defined by the commission by rule.

533 [~~47~~] (49) "Hotel license" means a license issued in accordance with Chapter 5, Retail
534 License Act, and Chapter 8b, Hotel License Act.

535 [~~48~~] (50) "Identification card" means an identification card issued under Title 53,
536 Chapter 3, Part 8, Identification Card Act.

537 [~~49~~] (51) "Industry representative" means an individual who is compensated by
538 salary, commission, or other means for representing and selling an alcoholic product of a
539 manufacturer, supplier, or importer of liquor.

540 [~~50~~] (52) "Industry representative sample" means liquor that is placed in the
541 possession of the department for testing, analysis, and sampling by a local industry
542 representative on the premises of the department to educate the local industry representative of
543 the quality and characteristics of the product.

544 [~~51~~] (53) "Interdicted person" means a person to whom the sale, offer for sale, or
545 furnishing of an alcoholic product is prohibited by:

546 (a) law; or

547 (b) court order.

548 [~~52~~] (54) "Intoxicated" means that a person:

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

551 (i) an alcoholic product;

552 (ii) a controlled substance;

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

554 (iv) a combination of Subsections [~~52~~] (54)(a)(i) through (iii); and

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

557 [~~(53)~~] (55) "Investigator" means an individual who is:

558 (a) a department compliance officer; or

559 (b) a nondepartment enforcement officer.

560 [~~(54)~~] (56) "Invitee" means the same as that term is defined in Section [32B-8-102](#).

561 [~~(55)~~] (57) "License" means:

562 (a) a retail license;

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

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

566 or

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

568 [~~(56)~~] (58) "Licensee" means a person who holds a license.

569 [~~(57)~~] (59) "Limited-service restaurant license" means a license issued in accordance
570 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

571 [~~(58)~~] (60) "Limousine" means a motor vehicle licensed by the state or a local
572 authority, other than a bus or taxicab:

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

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

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

579 [~~(59)~~] (61) (a) (i) "Liquor" means a liquid that:

580 (A) is:

581 (I) alcohol;

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

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

584 (IV) other drink or drinkable liquid; and

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

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

587 (ii) "Liquor" includes:

588 (A) heavy beer;

589 (B) wine; and

590 (C) a flavored malt beverage.

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

592 ~~[(60)]~~ (62) "Liquor Control Fund" means the enterprise fund created by Section
593 32B-2-301.

594 ~~[(61)]~~ (63) "Liquor warehousing license" means a license that is issued:

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

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

598 ~~[(62)]~~ (64) "Local authority" means:

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

601 (b) for premises that are located in an incorporated city, town, or metro township, the
602 governing body of the city, town, or metro township.

603 ~~[(63)]~~ (65) "Lounge or bar area" is as defined by rule made by the commission.

604 ~~[(64)]~~ (66) "Manufacture" means to distill, brew, rectify, mix, compound, process,
605 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
606 others.

607 ~~[(65)]~~ (67) "Member" means an individual who, after paying regular dues, has full
608 privileges in an equity ~~[club]~~ licensee or fraternal ~~[club]~~ licensee.

609 ~~[(66)]~~ (68) (a) "Military installation" means a base, air field, camp, post, station, yard,
610 center, or homeport facility for a ship:

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

612 (B) of the National Guard;

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

614 (iii) including a leased facility.

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

616 (i) civil works;

- 617 (ii) a rivers and harbors project; or
618 (iii) a flood control project.
- 619 [(67)] (69) "Minor" means an individual under the age of 21 years.
620 [(68)] (70) "Nondepartment enforcement agency" means an agency that:
621 (a) (i) is a state agency other than the department; or
622 (ii) is an agency of a county, city, town, or metro township; and
623 (b) has a responsibility to enforce one or more provisions of this title.
- 624 [(69)] (71) "Nondepartment enforcement officer" means an individual who is:
625 (a) a peace officer, examiner, or investigator; and
626 (b) employed by a nondepartment enforcement agency.
- 627 [(70)] (72) (a) "Off-premise beer retailer" means a beer retailer who is:
628 (i) licensed in accordance with Chapter 7, [Part 2,] Off-Premise Beer Retailer [Local
629 Authority] Act; and
630 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
631 premises.
632 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 633 (73) "Off-premise beer retailer state license" means a state license issued in accordance
634 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 635 [(71)] (74) "On-premise banquet license" means a license issued in accordance with
636 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 637 [(72)] (75) "On-premise beer retailer" means a beer retailer who is:
638 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
639 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
640 Retailer License; and
641 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
642 premises:
643 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
644 premises; and
645 (ii) on and after March 1, 2012, operating:
646 (A) as a tavern; or
647 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

- 648 [~~(73)~~] (76) "Opaque" means impenetrable to sight.
- 649 [~~(74)~~] (77) "Package agency" means a retail liquor location operated:
- 650 (a) under an agreement with the department; and
- 651 (b) by a person:
- 652 (i) other than the state; and
- 653 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 654 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 655 [~~(75)~~] (78) "Package agent" means a person who holds a package agency.
- 656 [~~(76)~~] (79) "Patron" means an individual to whom food, beverages, or services are sold,
- 657 offered for sale, or furnished, or who consumes an alcoholic product including:
- 658 (a) a customer;
- 659 (b) a member;
- 660 (c) a guest;
- 661 (d) an attendee of a banquet or event;
- 662 (e) an individual who receives room service;
- 663 (f) a resident of a resort;
- 664 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);
- 665 or
- 666 (h) an invitee.
- 667 [~~(77)~~] (80) "Permittee" means a person issued a permit under:
- 668 (a) Chapter 9, Event Permit Act; or
- 669 (b) Chapter 10, Special Use Permit Act.
- 670 [~~(78)~~] (81) "Person subject to administrative action" means:
- 671 (a) a licensee;
- 672 (b) a permittee;
- 673 (c) a manufacturer;
- 674 (d) a supplier;
- 675 (e) an importer;
- 676 (f) one of the following holding a certificate of approval:
- 677 (i) an out-of-state brewer;
- 678 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

- 679 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
680 (g) staff of:
681 (i) a person listed in Subsections [~~(78)~~] (81)(a) through (f); or
682 (ii) a package agent.
- 683 [~~(79)~~] (82) "Premises" means a building, enclosure, or room used in connection with
684 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
685 product, unless otherwise defined in this title or rules made by the commission.
- 686 [~~(80)~~] (83) "Prescription" means an order issued by a health care practitioner when:
687 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
688 to prescribe a controlled substance, other drug, or device for medicinal purposes;
689 (b) the order is made in the course of that health care practitioner's professional
690 practice; and
691 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 692 [~~(81)~~] (84) (a) "Private event" means a specific social, business, or recreational event:
693 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
694 group; and
695 (ii) that is limited in attendance to people who are specifically designated and their
696 guests.
697 (b) "Private event" does not include an event to which the general public is invited,
698 whether for an admission fee or not.
- 699 [~~(82)~~] (85) (a) "Proof of age" means:
700 (i) an identification card;
701 (ii) an identification that:
702 (A) is substantially similar to an identification card;
703 (B) is issued in accordance with the laws of a state other than Utah in which the
704 identification is issued;
705 (C) includes date of birth; and
706 (D) has a picture affixed;
- 707 (iii) a valid driver license certificate that:
708 (A) includes date of birth;
709 (B) has a picture affixed; and

- 710 (C) is issued:
- 711 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 712 (II) in accordance with the laws of the state in which it is issued;
- 713 (iv) a military identification card that:
- 714 (A) includes date of birth; and
- 715 (B) has a picture affixed; or
- 716 (v) a valid passport.
- 717 (b) "Proof of age" does not include a driving privilege card issued in accordance with

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

719 ~~[(83)]~~ [\(86\)](#) (a) "Public building" means a building or permanent structure that is:

- 720 (i) owned or leased by:
- 721 (A) the state; or
- 722 (B) a local government entity; and
- 723 (ii) used for:
- 724 (A) public education;
- 725 (B) transacting public business; or
- 726 (C) regularly conducting government activities.

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

730 ~~[(84)]~~ [\(87\)](#) "Public conveyance" means a conveyance that the public or a portion of the
731 public has access to and a right to use for transportation, including an airline, railroad, bus,
732 boat, or other public conveyance.

733 ~~[(85)]~~ [\(88\)](#) "Reception center" means a business that:

- 734 (a) operates facilities that are at least 5,000 square feet; and
- 735 (b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(85)]~~
736 [\(88\)](#)(a) to a third party for the third party's event.

737 ~~[(86)]~~ [\(89\)](#) "Reception center license" means a license issued in accordance with
738 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

739 ~~[(87)]~~ [\(90\)](#) (a) "Record" means information that is:

- 740 (i) inscribed on a tangible medium; or

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

742 (b) "Record" includes:

743 (i) a book;

744 (ii) a book of account;

745 (iii) a paper;

746 (iv) a contract;

747 (v) an agreement;

748 (vi) a document; or

749 (vii) a recording in any medium.

750 ~~[(88)]~~ (91) "Residence" means a person's principal place of abode within Utah.

751 ~~[(89)]~~ (92) "Resident," in relation to a resort, means the same as that term is defined in

752 Section [32B-8-102](#).

753 ~~[(90)]~~ (93) "Resort" means the same as that term is defined in Section [32B-8-102](#).

754 ~~[(91)]~~ (94) "Resort facility" is as defined by the commission by rule.

755 ~~[(92)]~~ (95) "Resort license" means a license issued in accordance with Chapter 5,

756 Retail License Act, and Chapter 8, Resort License Act.

757 (96) "Responsible alcohol service plan" means a written set of policies and procedures
758 that outlines measures to prevent employees from:

759 (a) over-serving alcoholic beverages to customers;

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

762 (c) serving alcoholic beverages to minors.

763 ~~[(93)]~~ (97) "Restaurant" means a business location:

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

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

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

767 ~~[(94)]~~ (98) "Retail license" means one of the following licenses issued under this title:

768 (a) a full-service restaurant license;

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

770 (c) a limited-service restaurant license;

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

- 772 (e) a [~~club~~] bar establishment license;
- 773 (f) an airport lounge license;
- 774 (g) an on-premise banquet license;
- 775 (h) an on-premise beer license;
- 776 (i) a reception center license;
- 777 (j) a beer-only restaurant license;
- 778 (k) a resort license; or
- 779 (l) a hotel license.

780 [~~(95)~~] (99) "Room service" means furnishing an alcoholic product to a person in a
781 guest room of a:

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

784 [~~(96)~~] (100) (a) "School" means a building used primarily for the general education of
785 minors.

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

787 [~~(97)~~] (101) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
788 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
789 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
790 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
791 the rules made by the commission.

792 [~~(98)~~] (102) "Serve" means to place an alcoholic product before an individual.

793 [~~(99)~~] (103) "Sexually oriented entertainer" means a person who while in a state of
794 seminudity appears at or performs:

- 795 (a) for the entertainment of one or more patrons;
- 796 (b) on the premises of:
 - 797 (i) a [~~social club~~] bar licensee; or
 - 798 (ii) a tavern;
- 799 (c) on behalf of or at the request of the licensee described in Subsection [~~(99)~~]

800 (103)(b);

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

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

- 803 (i) an employee;
- 804 (ii) an independent contractor;
- 805 (iii) an agent of the licensee; or
- 806 (iv) a different type of classification.
- 807 [~~(100)~~] (104) "Single event permit" means a permit issued in accordance with Chapter
- 808 9, Part 3, Single Event Permit.
- 809 [~~(101)~~] (105) "Small brewer" means a brewer who manufactures less than 60,000
- 810 barrels of beer, heavy beer, and flavored malt beverages per year.
- 811 [~~(103)~~] (106) "Special use permit" means a permit issued in accordance with Chapter
- 812 10, Special Use Permit Act.
- 813 [~~(104)~~] (107) (a) "Spirituous liquor" means liquor that is distilled.
- 814 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 815 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 816 [~~(105)~~] (108) "Sports center" is as defined by the commission by rule.
- 817 [~~(106)~~] (109) (a) "Staff" means an individual who engages in activity governed by this
- 818 title:
- 819 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 820 holder;
- 821 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 822 certificate holder; or
- 823 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 824 or certificate holder.
- 825 (b) "Staff" includes:
- 826 (i) an officer;
- 827 (ii) a director;
- 828 (iii) an employee;
- 829 (iv) personnel management;
- 830 (v) an agent of the licensee, including a managing agent;
- 831 (vi) an operator; or
- 832 (vii) a representative.
- 833 [~~(107)~~] (110) "State of nudity" means:

- 834 (a) the appearance of:
- 835 (i) the nipple or areola of a female human breast;
- 836 (ii) a human genital;
- 837 (iii) a human pubic area; or
- 838 (iv) a human anus; or

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

844 [~~(108)~~] (111) "State of seminudity" means a state of dress in which opaque clothing
845 covers no more than:

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

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

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

- 850 (A) four inches coverage width in the front of the human body; and
- 851 (B) five inches coverage width in the back of the human body; and

852 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

853 [~~(109)~~] (112) (a) "State store" means a facility for the sale of packaged liquor:

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

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

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

860 [~~(110)~~] (113) (a) "Storage area" means an area on licensed premises where the licensee
861 stores an alcoholic product.

862 (b) "Store" means to place or maintain in a location an alcoholic product from which a
863 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
864 Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or

865 32B-6-905(12)(b)(ii).

866 [~~(111)~~] (114) "Sublicense" means the same as that term is defined in Section

867 32B-8-102 or 32B-8b-102.

868 [~~(112)~~] (115) "Supplier" means a person who sells an alcoholic product to the
869 department.

870 [~~(113)~~] (116) "Tavern" means an on-premise beer retailer who is:

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

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

875 [~~(114)~~] (117) "Temporary beer event permit" means a permit issued in accordance with
876 Chapter 9, Part 4, Temporary Beer Event Permit.

877 [~~(115)~~] (118) "Temporary domicile" means the principal place of abode within Utah of
878 a person who does not have a present intention to continue residency within Utah permanently
879 or indefinitely.

880 [~~(116)~~] (119) "Translucent" means a substance that allows light to pass through, but
881 does not allow an object or person to be seen through the substance.

882 [~~(117)~~] (120) "Unsaleable liquor merchandise" means a container that:

883 (a) is unsaleable because the container is:

884 (i) unlabeled;

885 (ii) leaky;

886 (iii) damaged;

887 (iv) difficult to open; or

888 (v) partly filled;

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

890 (ii) has contents that are:

891 (A) cloudy;

892 (B) spoiled; or

893 (C) chemically determined to be impure; or

894 (iii) contains:

895 (A) sediment; or

896 (B) a foreign substance; or

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

898 ~~[(H8)]~~ (121) (a) "Wine" means an alcoholic product obtained by the fermentation of
899 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
900 not another ingredient is added.

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

903 ~~[(H9)]~~ (122) "Winery manufacturing license" means a license issued in accordance
904 with Chapter 11, Part 3, Winery Manufacturing License.

905 Section 5. Section **32B-1-104** is amended to read:

906 **32B-1-104. Exercise of police powers -- Severability.**

907 (1) (a) This title is an exercise of the police powers of the state for the protection of the
908 public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale,
909 furnishing, consumption, manufacture, and distribution of an alcoholic product.

910 (b) This title governs alcoholic product control unless otherwise provided in this title.

911 (c) If this title or a local ordinance adopted in accordance with Section [32B-1-204](#) does
912 not expressly permit a licensee or permittee to engage in an activity related to the storage, sale,
913 offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product,
914 the licensee or permittee may not engage in that activity.

915 (2) The department and the commission:

916 (a) shall implement and enforce the provisions of this title in accordance with the
917 express language of the provisions and in a manner consistent with the policy described in
918 Section [32B-1-103](#); and

919 (b) may not waive any provision of this title.

920 ~~[(2)]~~ (3) If a provision of this title or the application of a provision to a person or
921 circumstance is held invalid, the remainder of this title shall be given effect without the invalid
922 provision or application. The provisions of this title are severable.

923 Section 6. Section **32B-1-201** is amended to read:

924 **32B-1-201. Restrictions on number of retail licenses that may be issued --**
925 **Determining population -- Exempt licenses.**

926 (1) As used in this section:

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

929 (i) the enforcement of this title; or

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

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

933 (i) determine the quotient equal to the sum of the total number of quota retail licenses
934 available and the total number of licensed premises operating under a master full-service
935 restaurant license or under a master limited-service restaurant license divided by the total
936 number of alcohol-related law enforcement officers; and

937 (ii) round the number determined in accordance with Subsection (1)(b)(i) up to the
938 nearest whole number.

939 (c) "Quota retail license" means:

940 (i) a full-service restaurant license;

941 (ii) a limited-service restaurant license;

942 (iii) a ~~club~~ bar establishment license;

943 (iv) an on-premise banquet license;

944 (v) an on-premise beer retailer operating as a tavern; and

945 (vi) a reception center license.

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

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

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

953 (ii) adding together the numbers determined under Subsection (1)(e)(i).

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

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

958 1 for which the enforcement ratio is greater than 52.

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

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

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

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

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

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

975 (a) the retail license was issued to a club licensee designated as a dining club as of July
 976 1, 2011; and

977 (b) the dining club license is converted to another type of retail license in accordance
 978 with Section [32B-6-409](#).

979 Section 7. Section **32B-1-202** is amended to read:

980 **32B-1-202. Proximity to community location.**

981 (1) ~~[For purposes of]~~ As used in this section, ~~["outlet" means]:~~

982 (a) (i) "Outlet" means:

983 ~~[(a)]~~ (A) a state store;

984 ~~[(b)]~~ (B) a package agency; or

985 ~~[(c)]~~ (C) a retail licensee ~~[, except an airport lounge licensee].~~

986 (ii) "Outlet" does not include:

987 (A) an airport lounge licensee; or

988 (B) a restaurant.

989 (b) "Restaurant" means:

990 (i) a full-service restaurant licensee;

991 (ii) a limited-service restaurant licensee; or

992 (iii) a beer-only restaurant licensee.

993 ~~(2) (a) [Except as otherwise provided in this section, the]~~ The premises of an outlet
994 may not be located:

995 ~~[(a)]~~ (i) within 600 feet of a community location, as measured from the nearest
996 entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
997 property boundary of the community location; or

998 ~~[(b)]~~ (ii) within 200 feet of a community location, measured in a straight line from the
999 nearest entrance of the outlet to the nearest property boundary of the community location.

1000 (b) The premises of a restaurant may not be located:

1001 (i) within 450 feet of a community location, as measured from the nearest entrance of
1002 the restaurant by following the shortest route of ordinary pedestrian travel to the property
1003 boundary of the community location; or

1004 (ii) within 200 feet of a community location, measured in a straight line from the
1005 nearest entrance of the restaurant to the nearest property boundary of the community location.

1006 ~~[(3) With respect to the location of an outlet, the commission may authorize a variance~~
1007 ~~to reduce the proximity requirement of Subsection (2) if:]~~

1008 ~~[(a) when the variance reduces the proximity requirement of Subsection (2)(b), the~~
1009 ~~community location at issue is:]~~

1010 ~~[(i) a public library; or]~~

1011 ~~[(ii) a public park;]~~

1012 ~~[(b) except with respect to a state store, the local authority gives its written consent to~~
1013 ~~the variance;]~~

1014 ~~[(c) the commission finds that alternative locations for locating that type of outlet in~~
1015 ~~the community are limited;]~~

1016 ~~[(d) a public hearing is held in the city, town, metro township, or county, and when~~
1017 ~~practical in the neighborhood concerned;]~~

1018 ~~[(e) after giving full consideration to the attending circumstances and the policies~~
1019 ~~stated in Subsections [32B-1-103](#)(3) and (4), the commission determines that locating the outlet~~

1020 ~~in that location would not be detrimental to the public health, peace, safety, and welfare of the~~
1021 ~~community;]~~

1022 ~~[(f) (i) the community location governing authority gives its written consent to the~~
1023 ~~variance; or]~~

1024 ~~[(ii) if the community location governing authority does not give its written consent to~~
1025 ~~a variance, the commission finds the following for a state store, or if the outlet is a package~~
1026 ~~agency or retail licensee, the commission finds that the applicant establishes the following:]~~

1027 ~~[(A) there is substantial unmet public demand to consume an alcoholic product:]~~

1028 ~~[(f) within the geographic boundary of the local authority in which the outlet is to be~~
1029 ~~located; and]~~

1030 ~~[(H) for an outlet that is a retail licensee, in a public setting;]~~

1031 ~~[(B) there is no reasonably viable alternative for satisfying the substantial unmet~~
1032 ~~demand other than through locating that type of outlet in that location; and]~~

1033 ~~[(C) there is no reasonably viable alternative location within the geographic boundary~~
1034 ~~of the local authority in which the outlet is to be located for locating that type of outlet to~~
1035 ~~satisfy the unmet demand.]~~

1036 ~~[(4) With respect to the premises of a package agency or retail licensee that undergoes~~
1037 ~~a change of ownership, the commission may waive or vary the proximity requirements of~~
1038 ~~Subsection (2) in considering whether to issue the package agency or same type of retail license~~
1039 ~~to the new owner of the premises if:]~~

1040 ~~[(a) the premises previously received a variance reducing the proximity requirement of~~
1041 ~~Subsection (2)(a);]~~

1042 ~~[(b) the premises received a variance reducing the proximity requirement of Subsection~~
1043 ~~(2)(b) on or before May 4, 2008; or]~~

1044 ~~[(c) a variance from proximity requirements was otherwise allowed under this title.]~~

1045 (3) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under
1046 a previously approved variance to one or more proximity requirements in effect before May 9,
1047 2017, the outlet or restaurant may continue to operate under the variance if the outlet or
1048 restaurant remains in continuous operation, regardless of whether the outlet or restaurant
1049 changes ownership.

1050 ~~[(5)]~~ (4) Nothing in this section prevents the commission from considering the

1051 proximity of an educational, religious, and recreational facility, or any other relevant factor in
1052 reaching a decision on a proposed location of an outlet or a restaurant.

1053 Section 8. Section **32B-1-207** is amended to read:

1054 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

1055 In calculating the annual gross receipts of a retail license or sublicense for purposes of
1056 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
1057 or an alcoholic product, a retail licensee may not include in the calculation the money from the
1058 sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of [~~\$250~~
1059 \$175].

1060 Section 9. Section **32B-1-305** is amended to read:

1061 **32B-1-305. Requirement for a background check.**

1062 (1) The department shall require an individual listed in Subsection (2), in accordance
1063 with this part, to:

1064 (a) provide a signed waiver from the individual whose fingerprints may be registered in
1065 the Federal Bureau of Investigation Rap Back system that notifies the signee:

1066 (i) that a criminal history background check will be conducted;

1067 (ii) who will see the information; and

1068 (iii) how the information will be used;

1069 (b) submit to a background check in a form acceptable to the department; and

1070 (c) consent to a background check by:

1071 (i) the Utah Bureau of Criminal Identification; and

1072 (ii) the Federal Bureau of Investigation.

1073 (2) The following shall comply with Subsection (1):

1074 (a) an individual applying for employment with the department if:

1075 (i) the department makes the decision to offer the individual employment with the
1076 department; and

1077 (ii) once employed, the individual will receive benefits;

1078 (b) an individual applying to the commission to operate a package agency;

1079 (c) an individual applying to the commission for a license, unless the license is an
1080 off-premise beer retailer state license;

1081 (d) an individual who with regard to an entity that is applying to the commission to

1082 operate a package agency or for a license is:

1083 (i) a partner;

1084 (ii) a managing agent;

1085 (iii) a manager;

1086 (iv) an officer;

1087 (v) a director;

1088 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
1089 corporation;

1090 (vii) a member who owns at least 20% of a limited liability company; or

1091 (viii) an individual employed to act in a supervisory or managerial capacity; or

1092 (e) an individual who becomes involved with an entity that operates a package agency

1093 or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day

1094 on which the entity:

1095 (i) is approved to operate a package agency; or

1096 (ii) is licensed by the commission.

1097 (3) The department shall require compliance with Subsection (2)(e) as a condition of

1098 an entity's:

1099 (a) continued operation of a package agency; or

1100 (b) renewal of a license.

1101 (4) The department may require as a condition of continued employment that a

1102 department employee:

1103 (a) submit to a background check in a form acceptable to the department; and

1104 (b) consent to a fingerprint criminal background check by:

1105 (i) the Utah Bureau of Criminal Identification; and

1106 (ii) the Federal Bureau of Investigation.

1107 Section 10. Section **32B-1-407** is amended to read:

1108 **32B-1-407. Verification of proof of age by applicable licensees.**

1109 (1) As used in this section, "applicable licensee" means:

1110 (a) a dining club;

1111 (b) a [~~social club~~; or] bar;

1112 (c) a tavern[-];

1113 (d) a full-service restaurant;

1114 (e) a limited-service restaurant; or

1115 (f) a beer-only restaurant.

1116 (2) Notwithstanding any other provision of this part, an applicable licensee shall
1117 require that an authorized person for the applicable licensee verify proof of age as provided in
1118 this section.

1119 (3) An authorized person is required to verify proof of age under this section before an
1120 individual who appears to be 35 years of age or younger:

1121 (a) gains admittance to the premises of a [~~social club~~] bar licensee or tavern; [~~or~~]

1122 (b) procures an alcoholic product on the premises of a dining club licensee[~~;~~]; or

1123 (c) sits, remains, or consumes food or a beverage in a dispensing area in the premises

1124 of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only

1125 restaurant licensee.

1126 (4) To comply with Subsection (3), an authorized person shall:

1127 (a) request the individual present proof of age; and

1128 (b) (i) verify the validity of the proof of age electronically under the verification

1129 program created in Subsection (5); or

1130 (ii) if the proof of age cannot be electronically verified as provided in Subsection

1131 (4)(b)(i), request that the individual comply with a process established by the commission by

1132 rule.

1133 (5) The commission shall establish by rule an electronic verification program that

1134 includes the following:

1135 (a) the specifications for the technology used by the applicable licensee to

1136 electronically verify proof of age, including that the technology display to the person described

1137 in Subsection (2) no more than the following for the individual who presents the proof of age:

1138 (i) the name;

1139 (ii) the age;

1140 (iii) the number assigned to the individual's proof of age by the issuing authority;

1141 (iv) the birth date;

1142 (v) the gender; and

1143 (vi) the status and expiration date of the individual's proof of age; and

1144 (b) the security measures that shall be used by an applicable licensee to ensure that
1145 information obtained under this section is:

1146 (i) used by the applicable licensee only for purposes of verifying proof of age in
1147 accordance with this section; and

1148 (ii) retained by the applicable licensee for seven days after the day on which the
1149 applicable licensee obtains the information.

1150 (6) (a) An applicable licensee may not disclose information obtained under this section
1151 except as provided under this title.

1152 (b) Information obtained under this section is considered a record for any purpose
1153 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

1154 Section 11. Section **32B-1-505** is amended to read:

1155 **32B-1-505. Sexually oriented entertainer.**

1156 (1) Subject to the requirements of this part, live entertainment is permitted on premises
1157 or at an event regulated by the commission.

1158 (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a
1159 person to:

1160 (a) appear or perform in a state of nudity;

1161 (b) perform or simulate an act of:

1162 (i) sexual intercourse;

1163 (ii) masturbation;

1164 (iii) sodomy;

1165 (iv) bestiality;

1166 (v) oral copulation;

1167 (vi) flagellation; or

1168 (vii) a sexual act that is prohibited by Utah law; or

1169 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.

1170 (3) A sexually oriented entertainer may perform in a state of seminudity:

1171 (a) only in:

1172 (i) a tavern; or

1173 (ii) a [~~social club~~] bar license premises; and

1174 (b) only if:

1175 (i) the windows, doors, and other apertures to the premises are darkened or otherwise
1176 constructed to prevent anyone outside the premises from seeing the performance; and

1177 (ii) the outside entrance doors of the premises remain unlocked.

1178 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
1179 performance area that is:

1180 (a) approved by the commission in accordance with rules made by the commission;

1181 (b) configured so as to preclude a patron from:

1182 (i) touching the sexually oriented entertainer; or

1183 (ii) placing any money or object on or within the performance attire or the person of the
1184 sexually oriented entertainer; and

1185 (c) configured so as to preclude the sexually oriented entertainer from touching a
1186 patron.

1187 (5) A sexually oriented entertainer may not touch a patron:

1188 (a) during the sexually oriented entertainer's performance; or

1189 (b) while the sexually oriented entertainer is dressed in performance attire.

1190 (6) A sexually oriented entertainer, while in the portion of the premises used by
1191 patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented
1192 entertainer's performance attire from the top of the breast to the knee.

1193 (7) A patron may not be on the stage or in the performance area while a sexually
1194 oriented entertainer is appearing or performing on the stage or in the performance area.

1195 (8) A patron may not:

1196 (a) touch a sexually oriented entertainer:

1197 (i) during the sexually oriented entertainer's performance; or

1198 (ii) while the sexually oriented entertainer is dressed in performance attire; or

1199 (b) place money or any other object on or within the performance attire or the person of
1200 the sexually oriented entertainer.

1201 (9) A minor may not be on premises described in Subsection (3).

1202 (10) A person who appears or performs for the entertainment of patrons on premises or
1203 at an event regulated by the commission that is not a tavern or ~~[social club]~~ bar licensee:

1204 (a) may not appear or perform in a state of nudity or a state of seminudity; and

1205 (b) may appear or perform in opaque clothing that completely covers the person's

1206 genitals, pubic area, and anus if the covering:

1207 (i) is not less than the following at its widest point:

1208 (A) four inches coverage width in the front of the human body; and

1209 (B) five inches coverage width in the back of the human body;

1210 (ii) does not taper to less than one inch wide at the narrowest point; and

1211 (iii) if covering a female, completely covers the breast below the top of the areola.

1212 Section 12. Section **32B-1-604** is amended to read:

1213 **32B-1-604. Requirements for labeling and packaging -- Authority of the**

1214 **commission and department.**

1215 (1) A manufacturer may not distribute or sell a malted beverage:

1216 (a) unless the label and packaging of the malted beverage:

1217 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

1218 (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;

1219 and

1220 (b) until the day on which the department in accordance with this title and rules of the
1221 commission approves the label and packaging of the malted beverage.

1222 (2) The department shall review the label and packaging of a malted beverage to ensure
1223 that the label and packaging meet the requirements of Subsection (1)(a).

1224 (3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by
1225 including on a label and packaging for a malted beverage any of the following terms:

1226 (a) beer;

1227 (b) ale;

1228 (c) porter;

1229 (d) stout;

1230 (e) lager;

1231 (f) lager beer; or

1232 (g) another class or type designation commonly applied to a malted beverage that
1233 conveys by a recognized term that the product contains alcohol.

1234 (4) (a) As used in this section, "previously approved malted beverage" means a malted
1235 beverage for which the manufacturer holds approval for the label and packaging under
1236 Subsection (1)(b) on May 9, 2017.

1237 (b) Beginning May 9, 2017, the department shall review the label and packaging of
1238 each previously approved malted beverage for compliance with the provisions of this part.

1239 (c) If, during the review described in Subsection (4)(b), the department determines that
1240 a previously approved malted beverage does not comply with the provisions of this part on or
1241 after May 9, 2017:

1242 (i) the department shall send written notice to the manufacturer that states:

1243 (A) that the manufacturer shall reapply for approval of the label and packaging of the
1244 malted beverage; and

1245 (B) the date by which the manufacturer shall submit an application to the department
1246 for approval; and

1247 (ii) the manufacturer shall reapply for approval of the label and packaging of the
1248 malted beverage in accordance with the written notice and the provisions of this part.

1249 (d) (i) A manufacturer may distribute or sell a previously approved malted beverage
1250 through December 31, 2017, in accordance with the manufacturer's most recent approval from
1251 the department.

1252 (ii) After December 31, 2017, a manufacturer that receives a written notice from the
1253 department under Subsection (4)(c) may not distribute or sell a previously approved malted
1254 beverage, unless the department approves the label and packaging of the malted beverage.

1255 (e) The department shall ensure that the department notifies and takes action on each
1256 timely application submitted under this Subsection (4) before January 1, 2018.

1257 Section 13. Section **32B-1-605** is amended to read:

1258 **32B-1-605. General procedure for approval.**

1259 (1) To obtain approval of the label and packaging of a malted beverage, the
1260 manufacturer of the malted beverage shall submit an application to the department for
1261 approval.

1262 (2) The application described in Subsection (1) shall be on a form approved by the
1263 department and include the following for each brand and label for which the manufacturer
1264 seeks approval:

1265 (a) (i) a copy of a federal certificate of label approval from the United States
1266 Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau~~[, for each brand and~~
1267 ~~label for which the manufacturer is seeking approval]; or~~

- 1268 (ii) if the Bureau does not require label approval, a copy of formula approval from the
1269 United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;
1270 (b) a complete set of original labels for each size of container of the malted beverage;
1271 (c) a description of the size of the container on which a label will be placed;
1272 (d) a description of each type of container of the malted beverage; and
1273 (e) a description of any packaging for the malted beverage.
- 1274 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1275 approval.
- 1276 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1277 which the manufacturer submits an application whether the label and packaging is approved or
1278 denied.
- 1279 (b) If the department determines that an unusual circumstance requires additional time,
1280 the department may extend the time period described in Subsection (4)(a).
- 1281 (5) A manufacturer shall obtain the approval of the department of a revision of a
1282 previously approved label and packaging before a malted beverage using the revised label and
1283 packaging may be distributed or sold in this state.
- 1284 (6) (a) The department may revoke a label and packaging previously approved upon a
1285 finding that the label and packaging is not in compliance with this title or rules of the
1286 commission.
- 1287 (b) The department shall notify the person who applies for the approval of a label and
1288 packaging at least five business days before the day on which a label and packaging approval is
1289 considered revoked.
- 1290 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1291 argument or evidence to the department on why the revocation should not occur.
- 1292 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1293 denial or revocation of a label and packaging approval to the commission.
- 1294 Section 14. Section **32B-1-606** is amended to read:
- 1295 **32B-1-606. Special procedure for certain malted beverages.**
- 1296 [~~(1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a~~
1297 ~~label or packaging used for a nonalcoholic beverage,]~~
- 1298 (1) Notwithstanding Subsection 32B-1-604(3), a manufacturer of [~~the flavored malt~~] a

1299 malted beverage may not distribute or sell the [~~flavored malt~~] malted beverage in this state
 1300 until the day on which the manufacturer receives approval of the labeling and packaging from
 1301 the department in accordance with this section and Sections 32B-1-604 and 32B-1-605, if the
 1302 malted beverage is labeled or packaged in a manner that is:

1303 [~~(a) Sections 32B-1-604 and 32B-1-605; and~~]

1304 [~~(b) this section.~~]

1305 (a) similar to a label or packaging used for a nonalcoholic beverage; or

1306 (b) likely to confuse or mislead a patron to believe the malted beverage is a

1307 nonalcoholic beverage.

1308 (2) The department may not approve the labeling and packaging of a [~~flavored malt~~]
 1309 malted beverage described in Subsection (1) unless in addition to the requirements of Section
 1310 32B-1-604 the labeling and packaging complies with the following:

1311 (a) the label on the [~~flavored malt~~] malted beverage [~~shall bear~~] bears a prominently
 1312 displayed label or a firmly affixed sticker that provides the following information:

1313 (i) the statement:

1314 (A) "alcoholic beverage"[:]; or [~~(B)~~] "contains alcohol"; and

1315 (B) "beer," "flavored malt beverage," or "heavy beer," in accordance with the type of
 1316 malted beverage as defined in this title; and

1317 (ii) the alcohol content of the [~~flavored malt~~] malted beverage[:];

1318 (b) the packaging of [a flavored malt] the malted beverage [~~shall~~] prominently

1319 [~~include~~] includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to
 1320 the packaging, the statement:

1321 (i) "alcoholic beverage"; or

1322 (ii) "contains alcohol"[:];

1323 (c) a statement required by Subsection (2)(a) or (b) [~~shall appear~~] appears in a format
 1324 required by rule made by the commission[:]; and

1325 (d) a statement of alcohol content required by Subsection (2)(a)(ii):

1326 (i) [~~shall state~~] states the alcohol content as a percentage of alcohol by volume or by
 1327 weight;

1328 (ii) [~~may~~] does not use an abbreviation, but [~~shall use~~] uses the complete words
 1329 "alcohol," "volume," or "weight"; and

1330 (iii) ~~shall be~~ is in a format required by rule made by the commission.

1331 (3) The department may reject a label or packaging that appears designed to obscure
1332 the information required by Subsection (2).

1333 (4) To determine whether a ~~flavored malt~~ malted beverage is described in Subsection
1334 (1) and subject to this section, the department may consider in addition to other factors one or
1335 more of the following factors:

1336 (a) whether the coloring, carbonation, and packaging of the ~~flavored malt~~ malted
1337 beverage:

1338 (i) is similar to those of a nonalcoholic beverage or product; or

1339 (ii) can be confused with a nonalcoholic beverage;

1340 (b) whether the ~~flavored malt~~ malted beverage possesses a character and flavor
1341 distinctive from a traditional malted beverage;

1342 (c) whether the ~~flavored malt~~ malted beverage:

1343 (i) is prepackaged;

1344 (ii) contains high levels of caffeine and other additives; and

1345 (iii) is marketed as a beverage that is specifically designed to provide energy;

1346 (d) whether the ~~flavored malt~~ malted beverage contains added sweetener or sugar
1347 substitutes; or

1348 (e) whether the ~~flavored malt~~ malted beverage contains an added fruit flavor or other
1349 flavor that masks the taste of a traditional malted beverage.

1350 Section 15. Section **32B-2-202** is amended to read:

1351 **32B-2-202. Powers and duties of the commission.**

1352 (1) The commission shall:

1353 (a) consistent with the policy established by the Legislature by statute, act as a general
1354 policymaking body on the subject of alcoholic product control;

1355 (b) adopt and issue policies, rules, and procedures;

1356 (c) set policy by written rules that establish criteria and procedures for:

1357 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
1358 permit, or certificate of approval; and

1359 (ii) determining the location of a state store, package agency, or retail licensee;

1360 (d) decide within the limits, and under the conditions imposed by this title, the number

- 1361 and location of state stores, package agencies, and retail licensees in the state;
- 1362 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
- 1363 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
- 1364 consumption, manufacture, and distribution of an alcoholic product:
- 1365 (i) a package agency;
 - 1366 (ii) a full-service restaurant license;
 - 1367 (iii) a master full-service restaurant license;
 - 1368 (iv) a limited-service restaurant license;
 - 1369 (v) a master limited-service restaurant license;
 - 1370 (vi) a [~~club~~] bar establishment license;
 - 1371 (vii) an airport lounge license;
 - 1372 (viii) an on-premise banquet license;
 - 1373 (ix) a resort license, under which at least four or more sublicenses may be included;
 - 1374 (x) an on-premise beer retailer license;
 - 1375 (xi) a reception center license;
 - 1376 (xii) a beer-only restaurant license;
 - 1377 (xiii) a hotel license, under which at least three or more sublicenses may be included;
 - 1378 (xiv) subject to Subsection (4), a single event permit;
 - 1379 (xv) subject to Subsection (4), a temporary beer event permit;
 - 1380 (xvi) a special use permit;
 - 1381 (xvii) a manufacturing license;
 - 1382 (xviii) a liquor warehousing license;
 - 1383 (xix) a beer wholesaling license; and
 - 1384 (xx) one of the following that holds a certificate of approval:
 - 1385 (A) an out-of-state brewer;
 - 1386 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - 1387 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
 - 1388 (f) in accordance with Section [32B-5-205](#), issue, deny, suspend, or revoke conditional
 - 1389 licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution
 - 1390 of an alcoholic product;
 - 1391 (g) prescribe the duties of the department in assisting the commission in issuing a

- 1392 package agency, license, permit, or certificate of approval under this title;
- 1393 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 1394 in accordance with Section [63J-1-504](#);
- 1395 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 1396 agencies, and retail licensees;
- 1397 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 1398 class, variety, or brand of liquor kept for sale by the department;
- 1399 (k) (i) require the director to follow sound management principles; and
- 1400 (ii) require periodic reporting from the director to ensure that:
- 1401 (A) sound management principles are being followed; and
- 1402 (B) policies established by the commission are being observed;
- 1403 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
- 1404 and matters submitted by the director to the commission; and
- 1405 (ii) do the things necessary to support the department in properly performing the
- 1406 department's duties;
- 1407 (m) obtain temporarily and for special purposes the services of an expert or person
- 1408 engaged in the practice of a profession, or a person who possesses a needed skill if:
- 1409 (i) considered expedient; and
- 1410 (ii) approved by the governor;
- 1411 (n) prescribe the conduct, management, and equipment of premises upon which an
- 1412 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
- 1413 (o) make rules governing the credit terms of beer sales within the state to retail
- 1414 licensees; and
- 1415 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
- 1416 disciplinary action against a person subject to administrative action.
- 1417 (2) Consistent with the policy established by the Legislature by statute, the power of
- 1418 the commission to do the following is plenary, except as otherwise provided by this title, and
- 1419 not subject to review:
- 1420 (a) establish a state store;
- 1421 (b) issue authority to act as a package agent or operate a package agency; and
- 1422 (c) issue or deny a license, permit, or certificate of approval.

1423 (3) If the commission is authorized or required to make a rule under this title, the
 1424 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
 1425 Rulemaking Act.

1426 (4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director
 1427 may issue an event permit in accordance with Chapter 9, Event Permit Act.

1428 Section 16. Section **32B-2-210** is amended to read:

1429 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

1430 (1) There is created within the department an advisory board known as the "Alcoholic
 1431 Beverage Control Advisory Board."

1432 (2) The advisory board shall consist of [~~12 members~~] 8 voting members and one
 1433 nonvoting member as follows:

1434 (a) [~~the following~~] three voting members appointed by the commission[~~, a~~
 1435 ~~representative of~~]:

1436 [~~(i) a full-service restaurant licensee;~~]

1437 [~~(ii) a limited-service restaurant licensee;~~]

1438 [~~(iii) a beer-only restaurant licensee;~~]

1439 [~~(iv) a social club licensee;~~]

1440 [~~(v) a fraternal club licensee;~~]

1441 [~~(vi) a dining club licensee;~~]

1442 [~~(vii) a wholesaler licensee;~~]

1443 [~~(viii) an on-premise banquet licensee;~~]

1444 [~~(ix) an on-premise beer retailer licensee; and~~]

1445 [~~(x) a reception center licensee;~~]

1446 (i) one of whom represents the retail alcohol industry;

1447 (ii) one of whom represents the wholesale alcohol industry; and

1448 (iii) one of whom represents the alcohol manufacturing industry;

1449 (b) two voting members appointed by the commission, each of whom represents an

1450 organization that addresses alcohol or drug abuse prevention, alcohol or drug related

1451 enforcement, or alcohol or drug related education;

1452 (c) the director of the Division of Substance Abuse and Mental Health or the director's

1453 designee who serves as a voting member;

1454 ~~[(b)]~~ (d) the chair of the Utah Substance Use and Mental Health Advisory Council, or
1455 the chair's designee, who serves as a voting member; and

1456 ~~[(c)]~~ (e) the chair of the commission or the chair's designee from the members of the
1457 commission, who ~~[shall serve]~~ serves as a nonvoting member.

1458 (3) (a) Except as required by Subsection (3)(b), as terms of current voting members of
1459 the advisory board expire, the commission shall appoint each new member or reappointed
1460 member to a four-year term beginning July 1 and ending June 30.

1461 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the
1462 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1463 voting advisory board members are staggered so that approximately half of the advisory board
1464 is appointed every two years.

1465 (c) No two members of the board may be employed by the same company or nonprofit
1466 organization.

1467 (4) (a) When a vacancy occurs in the membership for any reason, the commission shall
1468 appoint a replacement for the unexpired term.

1469 (b) The commission shall terminate the term of a voting advisory board member who
1470 ceases to be representative as designated by the member's original appointment.

1471 (5) The advisory board shall meet no more than quarterly as called by the chair for the
1472 purpose of advising the commission and the department, with discussion limited to
1473 administrative rules made under this title.

1474 (6) The chair of the commission or the chair's designee shall serve as the chair of the
1475 advisory board and call the necessary meetings.

1476 (7) (a) ~~[Six]~~ Five members of the board constitute a quorum of the board.

1477 (b) An action of the majority when a quorum is present is the action of the board.

1478 (8) The department shall provide staff support to the advisory board.

1479 (9) A member may not receive compensation or benefits for the member's service, but
1480 may receive per diem and travel expenses in accordance with:

1481 (a) Section [63A-3-106](#);

1482 (b) Section [63A-3-107](#); and

1483 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1484 [63A-3-107](#).

1485 Section 17. Section **32B-2-304** is amended to read:

1486 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

1487 (1) For purposes of this section:

1488 (a) (i) "Landed case cost" means:

1489 (A) the cost of the product; and

1490 (B) inbound shipping costs incurred by the department.

1491 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
1492 of the department to a state store.

1493 (b) "Proof gallon" [~~has~~] means the same [~~meaning as~~] as that term is defined in 26
1494 U.S.C. Sec. 5002.

1495 (c) Notwithstanding Section **32B-1-102**, "small brewer" means a brewer who
1496 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
1497 beverage.

1498 (2) Except as provided in Subsection (3):

1499 (a) spirituous liquor sold by the department within the state shall be marked up in an
1500 amount not less than [~~86%~~] 88% above the landed case cost to the department;

1501 (b) wine sold by the department within the state shall be marked up in an amount not
1502 less than [~~86%~~] 88% above the landed case cost to the department;

1503 (c) heavy beer sold by the department within the state shall be marked up in an amount
1504 not less than [~~64.5%~~] 66.5% above the landed case cost to the department; and

1505 (d) a flavored malt beverage sold by the department within the state shall be marked up
1506 in an amount not less than [~~86%~~] 88% above the landed case cost to the department.

1507 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
1508 up in an amount not less than [~~15%~~] 17% above the landed case cost to the department.

1509 (b) Except for spirituous liquor sold by the department to a military installation in
1510 Utah, spirituous liquor that is sold by the department within the state shall be marked up [~~47%~~]
1511 49% above the landed case cost to the department if:

1512 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
1513 proof gallons of spirituous liquor in a calendar year; and

1514 (ii) the manufacturer applies to the department for a reduced markup.

1515 (c) Except for wine sold by the department to a military installation in Utah, wine that

1516 is sold by the department within the state shall be marked up [~~47%~~] 49% above the landed case
1517 cost to the department if:

1518 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of
1519 wine in a calendar year; and

1520 (ii) the manufacturer applies to the department for a reduced markup.

1521 (d) Except for heavy beer sold by the department to a military installation in Utah,
1522 heavy beer that is sold by the department within the state shall be marked up [~~30%~~] 32% above
1523 the landed case cost to the department if:

1524 (i) a small brewer manufactures the heavy beer; and

1525 (ii) the small brewer applies to the department for a reduced markup.

1526 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
1527 pursuant to a federal or other verifiable production report.

1528 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
1529 with the state treasurer to be credited to the Uniform School Fund and used to support the
1530 school lunch program administered by the State Board of Education under Section
1531 [53A-19-201](#).

1532 (5) This section does not prohibit the department from selling discontinued items at a
1533 discount.

1534 (6) (a) The department shall collect the markup and remit the markup collected by the
1535 department under this section:

1536 (i) to the State Tax Commission monthly on or before the last day of the month
1537 immediately following the last day of the previous month; and

1538 (ii) using a form prescribed by the State Tax Commission.

1539 (b) For liquor provided to a package agency on consignment, the department shall
1540 remit the markup to the State Tax Commission for the month during which the liquor is
1541 provided to the package agency regardless of when the package agency pays the department for
1542 the liquor provided to the package agency.

1543 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection
1544 (6)(a) into the Markup Holding Fund created in Section [32B-2-301](#).

1545 (d) The assessment, collection, and refund of a markup under this section shall be in
1546 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

1547 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties
1548 as provided in Section [59-1-401](#) and interest as provided in Section [59-1-402](#).

1549 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
1550 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

1551 Section 18. Section **32B-2-306** is amended to read:

1552 **32B-2-306. Underage drinking prevention media and education campaign --**
1553 **School-based underage drinking prevention program.**

1554 (1) As used in this section:

1555 (a) "Advisory council" means the Utah Substance Abuse Advisory Council created in
1556 Section [63M-7-301](#).

1557 (b) "Grade 10 school-based underage drinking prevention program" means a
1558 school-based underage drinking prevention program that also increases awareness of the
1559 dangers of driving under the influence of alcohol.

1560 (c) "LEA" means the same as that term is defined in Section [53A-1-401](#).

1561 ~~(b)~~ (d) "Restricted account" means the Underage Drinking Prevention Media and
1562 Education Campaign Restricted Account created in this section.

1563 (e) "School-based underage drinking prevention program" means an evidence-based
1564 program intended for students aged 13 and older that:

1565 (i) is aimed at preventing underage consumption of alcoholic product;

1566 (ii) is delivered by methods that engage students in storytelling and visualization;

1567 (iii) addresses the behavioral risk factors associated with underage drinking; and

1568 (iv) provides practical tools to address the dangers of underage drinking.

1569 (2) (a) There is created a restricted account within the General Fund known as the
1570 "Underage Drinking Prevention Media and Education Campaign Restricted Account."

1571 (b) The restricted account consists of:

1572 (i) deposits made under Subsection (3); and

1573 (ii) interest earned on the restricted account.

1574 (3) The department shall deposit 0.6% of the total gross revenue from sales of liquor
1575 with the state treasurer, as determined by the total gross revenue collected for the fiscal year
1576 two years preceding the fiscal year for which the deposit is made, to be credited to the
1577 restricted account and to be used by the department as provided in Subsection (5).

1578 (4) The advisory council shall:
1579 (a) provide ongoing oversight of a media and education campaign funded under this
1580 section;
1581 (b) create an underage drinking prevention workgroup consistent with guidelines
1582 proposed by the advisory council related to the membership and duties of the underage
1583 drinking prevention workgroup;
1584 (c) create guidelines for how money appropriated for a media and education campaign
1585 can be used;
1586 (d) include in the guidelines established pursuant to this Subsection (4) that a media
1587 and education campaign funded under this section is carefully researched and developed, and
1588 appropriate for target groups; and
1589 (e) approve plans submitted by the department in accordance with Subsection (5).
1590 (5) (a) Subject to appropriation from the Legislature, the department shall expend
1591 money from the restricted account to direct and fund one or more media and education
1592 campaigns designed to reduce underage drinking in cooperation with the advisory council.
1593 (b) The department shall:
1594 (i) in cooperation with the underage drinking prevention workgroup created under
1595 Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of
1596 the money appropriated under this section;
1597 (ii) upon approval of the plan by the advisory council, conduct the media and education
1598 campaign in accordance with the guidelines made by the advisory council; and
1599 (iii) submit to the advisory council annually by no later than October 1, a written report
1600 detailing the use of the money for the media and education campaigns conducted under this
1601 Subsection (5) and the impact and results of the use of the money during the prior fiscal year
1602 ending June 30.
1603 (6) (a) The department shall develop or, in accordance with Title 63G, Chapter 6a,
1604 Utah Procurement Code, the department shall contract with, a person to provide a school-based
1605 underage drinking prevention program and a grade 10 school-based underage drinking
1606 prevention program.
1607 (b) Each year, the department or the contracted provider shall present:
1608 (i) the school-based underage drinking prevention program to students in grade eight at

1609 each LEA; and

1610 (ii) the grade 10 school-based underage drinking prevention program to students in

1611 grade 10 at each LEA.

1612 Section 19. Section **32B-3-102** is amended to read:

1613 **32B-3-102. Definitions.**

1614 As used in this chapter~~["final"]~~:

1615 (1) "Aggravating circumstances" means:

1616 (a) prior warnings about compliance problems;

1617 (b) a prior violation history;

1618 (c) a lack of written policies governing employee conduct;

1619 (d) multiple violations during the course of an investigation;

1620 (e) efforts to conceal a violation;

1621 (f) an intentional violation;

1622 (g) the violation involved more than one patron or employee; or

1623 (h) a violation that results in injury or death.

1624 (2) "Final adjudication" means an adjudication for which a final judgment or order is

1625 issued that:

1626 ~~[(1)]~~ (a) is not appealed, and the time to appeal the judgment has expired; or

1627 ~~[(2)]~~ (b) is appealed, and is affirmed, in whole or in part, on appeal.

1628 Section 20. Section **32B-3-202** is amended to read:

1629 **32B-3-202. Timing of reporting violations.**

1630 Except when the person subject to administrative action is staff:

1631 (1) A disciplinary proceeding may not be initiated or maintained by the commission or
1632 department on the basis, in whole or in part, of a violation of this title unless a person subject to
1633 administrative action against whom the violation is alleged is notified by the department of the
1634 violation in accordance with this section.

1635 (2) (a) A nondepartment enforcement agency or nondepartment enforcement officer
1636 may not report a violation of this title to the department more than eight business days after the
1637 day on which a nondepartment enforcement officer or agency ~~[completes an investigation that]~~
1638 finds a violation of this title.

1639 (b) If the commission or department wants the right to initiate or maintain a

1640 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
1641 report described in Subsection (2)(a), the department shall notify a person subject to
1642 administrative action who is alleged by the report to have violated this title:

1643 (i) by no later than eight business days of the day on which the department receives the
1644 report described in Subsection (2)(a); and

1645 (ii) that the commission or department may initiate or maintain a disciplinary
1646 proceeding on the basis, in whole or in part, of the violation.

1647 (3) If the commission or department wants the right to initiate or maintain a
1648 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by a
1649 report of a department compliance officer, the department shall notify a person subject to
1650 administrative action who is alleged by the report to have violated this title:

1651 (a) by no later than eight business days of the day on which the department compliance
1652 officer completes an investigation that finds a violation of this title; and

1653 (b) that the commission or department may initiate or maintain a disciplinary
1654 proceeding on the basis, in whole or in part, of the violation.

1655 (4) (a) A notice required by this section may be done orally, if after the oral notification
1656 the department provides written notification.

1657 (b) The written notification described in Subsection (4)(a) may be sent outside the time
1658 periods required by this section.

1659 (5) The department shall maintain a record of a notification required by this section
1660 that includes:

1661 (a) the name of the person notified; and

1662 (b) the date of the notification.

1663 Section 21. Section **32B-3-205** is amended to read:

1664 **32B-3-205. Penalties.**

1665 (1) If the commission is satisfied that a person subject to administrative action violates
1666 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
1667 Procedures Act, the commission may:

1668 (a) suspend or revoke the person's license, permit, or certificate of approval;

1669 (b) subject to Subsection (2), impose a fine against the person, including individual
1670 staff of a licensee, permittee, or certificate holder;

1671 (c) assess the administrative costs of a disciplinary proceeding to the person if the
1672 person is a licensee, permittee, or certificate holder; or

1673 (d) take a combination of actions described in this Subsection (1).

1674 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

1675 (i) a single notice of agency action; or

1676 (ii) a single action against a package agency.

1677 (b) The commission shall by rule establish a schedule setting forth a range of fines for
1678 each violation.

1679 (c) When a presiding officer imposes a fine, the presiding officer shall consider any
1680 aggravating circumstances in deciding where within the applicable range to set the fine.

1681 (3) The commission shall transfer the costs assessed under this section into the General
1682 Fund in accordance with Section [32B-2-301](#).

1683 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
1684 shall prominently display a sign provided by the department:

1685 (i) during the suspension; and

1686 (ii) at the entrance of the premises of the licensee or permittee.

1687 (b) The sign required by this Subsection (4) shall:

1688 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the
1689 alcoholic product license or permit of this establishment. An alcoholic product may not be
1690 sold, offered for sale, furnished, or consumed on these premises during the period of
1691 suspension."; and

1692 (ii) include the dates of the suspension period.

1693 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to
1694 be displayed under this Subsection (4) during the suspension period.

1695 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
1696 bond posted by the licensee or permittee under this title.

1697 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
1698 bond posted by a licensee or permittee for money owed the department under this title without
1699 the commission first revoking the license or permit.

1700 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
1701 license or permit under this title for three years from the date on which the license or permit is

1702 revoked.

1703 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
1704 violated this title, in addition to imposing another penalty authorized by this title, the
1705 commission may prohibit the staff member from handling, selling, furnishing, distributing,
1706 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
1707 staff with a licensee, permittee, or certificate holder under this title for a period determined by
1708 the commission.

1709 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
1710 to other penalties prescribed by this title, the commission may order:

1711 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
1712 from the department's sales list; and

1713 (ii) a suspension of the department's purchase of an alcoholic product described in
1714 Subsection (8)(a)(i) for a period determined by the commission.

1715 (b) The commission may take the action described in Subsection (8)(a) if:

1716 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
1717 this title; and

1718 (ii) the manufacturer, supplier, or importer:

1719 (A) directly commits the violation; or

1720 (B) solicits, requests, commands, encourages, or intentionally aids another to engage in
1721 the violation.

1722 (9) If the commission makes a finding that the brewer holding a certificate of approval
1723 violates this title or rules of the commission, the commission may take an action against the
1724 brewer holding a certificate of approval that the commission could take against a licensee
1725 including:

1726 (a) suspension or revocation of the certificate of approval; and

1727 (b) imposition of a fine.

1728 (10) Notwithstanding the other provisions of this title, the commission may not order a
1729 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1730 ordered on the basis of a violation:

1731 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1732 (b) if the violation is first investigated by a law enforcement officer, as defined in

1733 Section 53-13-103, who has not received training regarding the requirements of this title
1734 related to responsible alcoholic product sale or service.

1735 Section 22. Section 32B-4-410 is amended to read:

1736 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

1737 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
1738 premises of:

1739 (a) a tavern; or

1740 (b) a ~~[social club]~~ bar licensee, except to the extent authorized by Section 32B-6-406.1.

1741 (2) A minor who violates this section is guilty of a class C misdemeanor.

1742 (3) (a) If a minor is found by a court to have violated this section and the violation is
1743 the minor's first violation of this section, the court may:

1744 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1745 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1746 screening indicates an assessment to be appropriate; and

1747 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1748 or substance abuse treatment as indicated by an assessment.

1749 (b) If a minor is found by a court to have violated this section and the violation is the
1750 minor's second or subsequent violation of this section, the court shall:

1751 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1752 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1753 screening indicates an assessment to be appropriate; and

1754 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1755 or substance abuse treatment as indicated by an assessment.

1756 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
1757 found by a court to have violated this section, except as provided in Section 32B-4-411, the
1758 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

1759 (b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the
1760 suspension period required under Section 53-3-219 if:

1761 (i) the violation is the minor's first violation of this section; and

1762 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

1763 (B) the minor demonstrates substantial progress in substance abuse treatment.

1764 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the
1765 requirements of Section 53-3-219, the court may reduce the suspension period required under
1766 Section 53-3-219 if:

1767 (i) the violation is the minor's second or subsequent violation of this section;

1768 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
1769 demonstrated substantial progress in substance abuse treatment; and

1770 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
1771 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
1772 consecutive period during the suspension period imposed under Subsection (4)(a); or

1773 (B) the person is under 18 years of age and has the person's parent or legal guardian
1774 provide an affidavit or sworn statement to the court certifying that to the parent or legal
1775 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
1776 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

1777 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
1778 by a court to have violated this section, Section 78A-6-606 applies to the violation.

1779 (6) When a court issues an order suspending a person's driving privileges for a
1780 violation of this section, the Driver License Division shall suspend the person's license under
1781 Section 53-3-219.

1782 (7) When the Department of Public Safety receives the arrest or conviction record of a
1783 person for a driving offense committed while the person's license is suspended pursuant to this
1784 section, the Department of Public Safety shall extend the suspension for an additional like
1785 period of time.

1786 Section 23. Section 32B-4-415 is amended to read:

1787 **32B-4-415. Unlawful bringing onto premises for consumption.**

1788 (1) Except as provided in Subsection (4), a person may not bring an alcoholic product
1789 for on-premise consumption onto the premises of:

1790 (a) a retail licensee or person required to be licensed under this title as a retail licensee;

1791 (b) an establishment that conducts a business similar to a retail licensee;

1792 (c) an event where an alcoholic product is sold, offered for sale, or furnished under a
1793 single event permit or temporary beer event permit issued under this title;

1794 (d) an establishment open to the general public; or

- 1795 (e) the capitol hill complex.
- 1796 (2) Except as provided in Subsection (4), the following may not allow a person to bring
1797 onto its premises an alcoholic product for on-premise consumption or allow consumption of an
1798 alcoholic product brought onto its premises in violation of this section:
- 1799 (a) a retail licensee or a person required to be licensed under this title as a retail
1800 licensee;
- 1801 (b) an establishment that conducts a business similar to a retail licensee;
- 1802 (c) a single event permittee or temporary beer event permittee;
- 1803 (d) an establishment open to the general public;
- 1804 (e) the State Capitol Preservation Board created in Section 63C-9-201; or
- 1805 (f) staff of a person listed in Subsections (2)(a) through (e).
- 1806 (3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an
1807 alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a
1808 passenger at:
- 1809 (a) a location from which the passenger departs in a private vehicle; or
- 1810 (b) the capitol hill complex.
- 1811 (4) (a) A person may bring bottled wine onto the premises of the following and
1812 consume the wine pursuant to Section 32B-5-307:
- 1813 (i) a full-service restaurant licensee;
- 1814 (ii) a limited restaurant licensee;
- 1815 (iii) a [~~club~~] bar establishment licensee; or
- 1816 (iv) a person operating under a resort spa sublicense.
- 1817 (b) A passenger of a limousine may bring onto, possess, and consume an alcoholic
1818 product in the limousine if:
- 1819 (i) the travel of the limousine begins and ends at:
- 1820 (A) the residence of the passenger;
- 1821 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
- 1822 (C) the temporary domicile of the passenger;
- 1823 (ii) the driver of the limousine is separated from the passengers by partition or other
1824 means approved by the department; and
- 1825 (iii) the limousine is not located on the capitol hill complex.

1826 (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic
1827 product on the chartered bus:

1828 (i) (A) but may consume only during travel to a specified destination of the chartered
1829 bus and not during travel back to the place where the travel begins; or

1830 (B) if the travel of the chartered bus begins and ends at:

1831 (I) the residence of the passenger;

1832 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

1833 (III) the temporary domicile of the passenger;

1834 (ii) if the chartered bus has a nondrinking designee other than the driver traveling on
1835 the chartered bus to monitor consumption; and

1836 (iii) if the chartered bus is not located on the capitol hill complex.

1837 (5) A person may bring onto any premises, possess, and consume an alcoholic product
1838 at a private event.

1839 (6) Notwithstanding Subsection (5), private and public facilities may prohibit the
1840 possession or consumption of alcohol on their premises.

1841 (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel
1842 licensee or person operating under a sublicense in relationship to:

1843 (a) the boundary of a resort building or boundary of a hotel in an area that is open to
1844 the public; or

1845 (b) except as provided in Subsection (4), a sublicense premises.

1846 Section 24. Section **32B-4-501** is amended to read:

1847 **32B-4-501. Operating without a license or permit.**

1848 (1) A person may not operate the following businesses without first obtaining a license
1849 under this title if the business allows a person to purchase or consume an alcoholic product on
1850 the premises of the business:

1851 (a) a restaurant;

1852 (b) an airport lounge;

1853 (c) a business operated in the same manner as a [~~club~~] bar establishment licensee;

1854 (d) a resort;

1855 (e) a business operated to sell, offer for sale, or furnish beer for on-premise

1856 consumption;

1857 (f) a business operated as an on-premise banquet licensee;

1858 (g) a hotel; or

1859 (h) a business similar to one listed in Subsections (1)(a) through (g).

1860 (2) A person conducting an event that is open to the general public may not directly or
1861 indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event
1862 without first obtaining an event permit under this title.

1863 (3) A person conducting a private event may not directly or indirectly sell or offer for
1864 sale an alcoholic product to a person attending the private event without first obtaining an
1865 event permit under this title.

1866 (4) A person may not operate the following businesses in this state without first
1867 obtaining a license under this title:

1868 (a) a winery manufacturer;

1869 (b) a distillery manufacturer;

1870 (c) a brewery manufacturer;

1871 (d) a local industry representative of:

1872 (i) a manufacturer of an alcoholic product;

1873 (ii) a supplier of an alcoholic product; or

1874 (iii) an importer of an alcoholic product;

1875 (e) a liquor warehouse; or

1876 (f) a beer wholesaler.

1877 (5) A person may not operate a public conveyance in this state without first obtaining a
1878 public service permit under this title if that public conveyance allows a person to purchase or
1879 consume an alcoholic product:

1880 (a) on the public conveyance; or

1881 (b) on the premises of a hospitality room located within a depot, terminal, or similar
1882 facility at which a service is provided to a patron of the public conveyance.

1883 Section 25. Section **32B-5-201** is amended to read:

1884 **32B-5-201. Application requirements for retail license.**

1885 (1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of
1886 an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a
1887 retail license issued by the commission, notwithstanding whether the person holds a local

- 1888 license or a permit issued by a local authority.
- 1889 (b) Violation of this Subsection (1) is a class B misdemeanor.
- 1890 (2) To obtain a retail license under this title, a person shall submit to the department:
- 1891 (a) a written application in a form prescribed by the department;
- 1892 (b) a nonrefundable application fee in the amount specified in the relevant part under
- 1893 Chapter 6, Specific Retail License Act, for the type of retail license for which the person is
- 1894 applying;
- 1895 (c) an initial license fee:
- 1896 (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License
- 1897 Act, for the type of retail license for which the person is applying; and
- 1898 (ii) that is refundable if a retail license is not issued;
- 1899 (d) written consent of the local authority;
- 1900 (e) a copy of the person's current business license;
- 1901 (f) evidence of proximity to any community location, with proximity requirements
- 1902 being governed by Section [32B-1-202](#);
- 1903 (g) a bond as specified by Section [32B-5-204](#);
- 1904 (h) a floor plan, and boundary map where applicable, of the premises of the retail
- 1905 license, including any:
- 1906 (i) consumption area; and
- 1907 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
- 1908 beverage;
- 1909 (i) evidence that the retail licensee is carrying public liability insurance in an amount
- 1910 and form satisfactory to the department;
- 1911 (j) evidence that the retail licensee is carrying dramshop insurance coverage of at least
- 1912 \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- 1913 (k) a signed consent form stating that the retail licensee will permit any authorized
- 1914 representative of the commission, department, or any law enforcement officer to have
- 1915 unrestricted right to enter the premises of the retail licensee;
- 1916 (l) if the person is an entity, proper verification evidencing that a person who signs the
- 1917 application is authorized to sign on behalf of the entity; ~~and~~
- 1918 (m) a responsible alcohol service plan; and

1919 ~~(m)~~ (n) any other information the commission or department may require.

1920 (3) The commission may not issue a retail license to a person who:

1921 (a) is disqualified under Section 32B-1-304; or

1922 (b) is not lawfully present in the United States.

1923 (4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail

1924 License Act, the commission may not issue a retail license to a person if the licensed premises

1925 does not meet the proximity requirements of Section 32B-1-202.

1926 Section 26. Section 32B-5-202 is amended to read:

1927 **32B-5-202. Renewal requirements.**

1928 (1) A retail license expires each year on the day specified in the relevant part under

1929 Chapter 6, Specific Retail License Act, for that type of retail license.

1930 (2) To renew a person's retail license, a retail licensee shall, by no later than the day

1931 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail

1932 license that is being renewed, submit:

1933 (a) a completed renewal application that includes a responsible alcohol service plan to

1934 the department in a form prescribed by the department; and

1935 (b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific

1936 Retail License Act, for the type of retail license that is being renewed.

1937 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the

1938 retail license effective on the date the existing retail license expires.

1939 Section 27. Section 32B-5-207 is enacted to read:

1940 **32B-5-207. Multiple retail licenses on same premises.**

1941 (1) (a) (i) The commission may not issue and one or more licensees may not hold more

1942 than one type of retail license for the same room.

1943 (ii) The commission may define "room" by rule made in accordance with Title 63G,

1944 Chapter 3, Utah Administrative Rulemaking Act.

1945 (b) Notwithstanding Subsection (1)(a), the commission may issue and one or more

1946 licensees may hold more than one type of retail license for the same room if:

1947 (i) the applicant or licensee satisfies the requirements for each retail license;

1948 (ii) the types of retail licenses issued or held are:

1949 (A) a restaurant license; and

- 1950 (B) an on-premise banquet license or a reception center license; and
1951 (iii) the retail licenses do not operate at the same time on the same day.
1952 (2) When one or more licensees hold more than one type of retail license for the same
1953 room under Subsection (1)(b), the one or more licensees shall post in a conspicuous location at
1954 the entrance of the room a sign that:
1955 (a) measures 8-1/2 inches by 11 inches; and
1956 (b) states whether the premises is currently operating as:
1957 (i) a restaurant; or
1958 (ii) a banquet or a reception center.
1959 (3) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail
1960 license for the same room in violation of Subsection (1), the one or more licensees may operate
1961 under the different types of retail licenses through June 30, 2018.
1962 (b) A licensee may not operate in violation of Subsection (1) on or after July 1, 2018.
1963 (c) Before July 1, 2018, each licensee described in Subsection (3)(a) shall notify the
1964 commission of each retail license that the licensee will surrender effective July 1, 2018, to
1965 comply with the provisions of Subsection (1).
1966 (d) The commission shall establish by rule, made in accordance with Title 63G,
1967 Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a
1968 retail license under this Subsection (3).
1969 Section 28. Section **32B-5-307** is amended to read:
1970 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
1971 **premises.**
1972 (1) Except as provided in Subsection (3):
1973 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
1974 product for on-premise consumption.
1975 (b) A retail licensee may not allow a person to:
1976 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or
1977 (ii) consume an alcoholic product brought onto the licensed premises by a person other
1978 than the retail licensee.
1979 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through
1980 a window or door to a location off the licensed premises or to a vehicular traffic area.

1981 (2) Except as provided in Subsection (3):

1982 (a) A person may not carry from a licensed premises of a retail licensee an open
1983 container that:

1984 (i) is used primarily for drinking purposes; and

1985 (ii) contains an alcoholic product.

1986 (b) A retail licensee may not permit a patron to carry from the licensed premises an
1987 open container described in Subsection (2)(a).

1988 (c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):

1989 (i) a person may not carry from a licensed premises of a retail licensee a sealed
1990 container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail licensee; and

1991 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
1992 sealed container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail
1993 licensee.

1994 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
1995 on-premise consumption if:

1996 (i) permitted by the retail licensee; and

1997 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

1998 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
1999 patron shall deliver the bottled wine to a server or other representative of the retail licensee
2000 upon entering the licensed premises.

2001 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
2002 wine service for a bottled wine carried onto the licensed premises in accordance with this
2003 Subsection (3) or a bottled wine purchased at the licensed premises.

2004 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
2005 of wine purchased [~~it~~] at the licensed premises, or brought onto the licensed premises in
2006 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

2007 Section 29. Section 32B-5-402 is amended to read:

2008 **32B-5-402. Definitions.**

2009 [~~Reserved~~]

2010 As used in this part:

2011 (1) "Off-premise retail manager" means an individual who:

2012 (a) manages operations at a premises that is licensed under Chapter 7, Off-Premise
2013 Beer Retailer Act; or

2014 (b) supervises the sale of beer at a premises that is licensed under Chapter 7,
2015 Off-Premise Beer Retailer Act.

2016 (2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that
2017 is licensed under Chapter 7, Off-Premise Beer Retailer Act.

2018 (b) "Off-premise retail staff" does not include an off-premise retail manager.

2019 (3) "Retail manager" means an individual who:

2020 (a) manages operations at a premises that is licensed under this chapter; or

2021 (b) supervises the furnishing of an alcoholic product at a premises that is licensed
2022 under this chapter.

2023 (4) "Retail owner" means:

2024 (a) for an individual or sole proprietorship that is licensed under this chapter, the
2025 individual or sole proprietor; or

2026 (b) for a partnership, corporation, or limited liability company that is licensed under
2027 this chapter, an appointed representative who is:

2028 (i) a partner;

2029 (ii) a managing agent;

2030 (iii) a manager;

2031 (iv) an officer;

2032 (v) a director;

2033 (vi) a stockholder who holds at least 20% of the total issued and outstanding stocks of
2034 the corporation; or

2035 (vii) a member who owns at least a 20% interest in the limited liability company.

2036 (5) (a) "Retail staff" means an individual who serves an alcoholic product at a premises
2037 licensed under this chapter.

2038 (b) "Retail staff" does not include a retail manager or retail owner.

2039 Section 30. Section **32B-5-403** is amended to read:

2040 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**
2041 **nonrenewal of retail license.**

2042 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if

2043 any of the following individuals~~[, as defined in Section 62A-15-401,]~~ fail to complete an
 2044 alcohol training and education seminar:

2045 ~~[(a) an individual who manages operations at the licensed premises for consumption on
 2046 the licensed premises;]~~

2047 ~~[(b) an individual who supervises the furnishing of an alcoholic product to a patron for
 2048 consumption on the licensed premises; or]~~

2049 ~~[(c) an individual who serves an alcoholic product to a patron for consumption on the
 2050 licensed premises.]~~

2051 (a) a retail manager; or

2052 (b) retail staff.

2053 (2) A city, town, metro township, or county in which a retail licensee conducts ~~[its]~~
 2054 business may suspend, revoke, or not renew the business license of the retail licensee if ~~[an~~
 2055 ~~individual described in Subsection (1)]~~ a retail manager or retail staff fails to complete an
 2056 alcohol training and education seminar.

2057 (3) A local authority that issues an off-premise beer retailer license to a business that is
 2058 engaged in the retail sale of beer for consumption off the beer retailer's premises may
 2059 immediately suspend the off-premise beer retailer license if any of the following individuals
 2060 fails to complete an alcohol training and education seminar~~[, an individual who]:~~

2061 ~~[(a) directly supervises the sale of beer to a patron for consumption off the premises of
 2062 the off-premise beer retailer; or]~~

2063 ~~[(b) sells beer to a patron for consumption off the premises of the off-premise beer
 2064 retailer.]~~

2065 (a) an off-premise retail manager; or

2066 (b) off-premise retail staff.

2067 Section 31. Section **32B-5-404** is amended to read:

2068 **32B-5-404. Alcohol training and education for off-premise consumption.**

2069 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
 2070 sell beer at retail for off-premise consumption shall require the following to have a valid record
 2071 that the individual completed an alcohol training and education seminar in the time periods
 2072 required by Subsection (1)(b)~~[, an individual who]:~~

2073 ~~[(i) directly supervises the sale of beer to a patron for consumption off the premises of~~

2074 ~~the off-premise beer retailer; or]~~

2075 ~~[(ii) sells beer to a patron for consumption off the premises of the off-premise beer~~
 2076 ~~retailer.]~~

2077 (i) an off-premise retail manager; or

2078 (ii) off-premise retail staff.

2079 (b) If an individual on the date the individual becomes staff to an off-premise beer
 2080 retailer does not have a valid record that the individual has completed an alcohol training and
 2081 education seminar for purposes of this part, the individual shall complete an alcohol training
 2082 and education seminar within 30 days of the day on which the individual becomes staff of an
 2083 off-premise beer retailer.

2084 (c) Section [62A-15-401](#) governs the validity of a record that an individual has
 2085 completed an alcohol training and education seminar required by this part.

2086 (2) In accordance with Section [32B-5-403](#), a local authority may immediately suspend
 2087 the license of an off-premise beer retailer that allows ~~[staff to directly supervise the sale of beer~~
 2088 ~~or to sell beer to a patron]~~ an individual to work as an off-premise retail manager without
 2089 having a valid record that the individual completed an alcohol training and education seminar
 2090 in accordance with Subsection (1).

2091 Section 32. Section **32B-5-405** is enacted to read:

2092 **32B-5-405. Department training programs.**

2093 (1) No later than January 1, 2018, the department shall develop the following training
 2094 programs that are provided either in-person or online:

2095 (a) a training program for retail managers and retail owners that addresses:

2096 (i) the statutes and rules that govern alcohol sales and consumption in the state;

2097 (ii) the requirements for operating as a retail licensee;

2098 (iii) using compliance assistance from the department; and

2099 (iv) any other topic the department determines beneficial to a retail manager or retail
 2100 owner;

2101 (b) a training program for off-premise retail managers that addresses:

2102 (i) the statutes and rules that govern sales at an off-premise beer retailer;

2103 (ii) the requirements for operating as an off-premise beer retailer;

2104 (iii) using compliance assistance from the department; and

2105 (iv) any other topic the department determines beneficial to an off-premise retail
2106 manager; and

2107 (c) a training program for an individual employed by a retail licensee or an off-premise
2108 beer retailer who violates a provision of this title related to the sale, service, or furnishing of an
2109 alcoholic beverage to an intoxicated individual or a minor, that addresses:

2110 (i) the statutes and rules that govern the most common types of violations under this
2111 title;

2112 (ii) how to avoid common violations; and

2113 (iii) any other topic the department determines beneficial to the training program.

2114 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
2115 the provisions of this section, the department shall make rules to develop and implement the
2116 training programs described in this section, including rules that establish:

2117 (a) the requirements for each training program described in this section;

2118 (b) measures that accurately identify each individual who takes and completes a
2119 training program;

2120 (c) measures that ensure an individual taking a training program is focused and actively
2121 engaged in the training material throughout the training program;

2122 (d) a record that certifies that an individual has completed a training program; and

2123 (e) a fee for participation in a training program to cover the department's cost of
2124 providing the training program.

2125 (3) (a) Except as provided in Subsection (4), each retail manager and each retail owner
2126 shall:

2127 (i) complete the training program described in Subsection (1)(a) within 30 days after
2128 the day on which:

2129 (A) the retail manager is hired; or

2130 (B) the retail owner's business obtains a retail license under this chapter; and

2131 (ii) retake the training program described in Subsection (1)(a) once every three years.

2132 (b) Except as provided in Subsection (4), each off-premise retail manager shall:

2133 (i) complete the training program described in Subsection (1)(b) within 30 days after
2134 the day on which the off-premise retail manager is hired; and

2135 (ii) retake the training program described in Subsection (1)(b) once every three years.

2136 (c) (i) If the commission finds that an individual employed by a retail licensee violated
2137 a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an
2138 intoxicated individual or a minor for a second time while employed by the same retail licensee,
2139 the violator, all retail staff, and each retail manager shall complete the training program
2140 described in Subsection (1)(c).

2141 (ii) If the commission finds that an individual employed by an off-premise beer retailer
2142 violated a provision of this title related to the sale, service, or furnishing of an alcoholic
2143 beverage to an intoxicated individual or a minor for a second time while employed by the same
2144 off-premise beer retailer, the violator and each off-premise retail manager shall complete the
2145 training program described in Subsection (1)(c).

2146 (4) For a person who holds a retail license or an off-premise beer retailer license on
2147 May 9, 2017:

2148 (a) each retail manager and each retail owner shall complete the training program
2149 described in Subsection (1)(a) for the first time before the day on which the licensee renews the
2150 licensee's license; and

2151 (b) each off-premise retail manager shall complete the training described in Subsection
2152 (1)(b) for the first time before the day on which the licensee renews the licensee's license.

2153 (5) If an individual fails to complete a required training program under this section:

2154 (a) the commission may suspend, revoke, or not renew the retail license or off-premise
2155 beer retailer state license;

2156 (b) a city, town, metro township, or county in which the retail licensee or off-premise
2157 beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise
2158 beer retailer's business license; or

2159 (c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's
2160 license.

2161 Section 33. Section **32B-5-406** is enacted to read:

2162 **32B-5-406. Tracking certain enforcement actions.**

2163 (1) For each violation of a provision of this title involving the sale of an alcoholic
2164 product to a minor that staff of a retail licensee commits, the commission shall:

2165 (a) maintain a record of the violation until the record is expunged in accordance with
2166 Subsection (3);

2167 (b) include in the record described in Subsection (1)(a):
 2168 (i) the name of the individual who committed the violation;
 2169 (ii) the name of the retail licensee; and
 2170 (iii) the date of the adjudication of the violation; and
 2171 (c) provide the information described in Subsection (1)(b) to the Department of Public
 2172 Safety within 30 days after the day on which the violation is adjudicated.

2173 (2) (a) The Department of Public Safety shall development and operate a system to
 2174 collect, analyze, maintain, track, and disseminate the information that the Department of Public
 2175 Safety receives in accordance with Subsection (1).

2176 (b) The Department of Public Safety shall make the system described in Subsection
 2177 (2)(a) available to:

2178 (i) assist the commission in assessing penalties under this title; and
 2179 (ii) inform a retail licensee of an individual who has a violation history in the system.

2180 (3) The commission and the Department of Public Safety shall expunge each record in
 2181 the system described in Subsection (2) that relates to an individual if the individual does not
 2182 violate a provision of this title related to the sale of an alcoholic product to a minor for a period
 2183 of 36 consecutive months from the day on which the individual was last found to have violated
 2184 a provision of this title related to the sale of an alcoholic product to a minor.

2185 Section 34. Section **32B-6-202** is amended to read:

2186 **32B-6-202. Definitions.**

2187 As used in this part:

2188 (1) (a) "Dining area" means an area in the licensed premises of a full-service restaurant
 2189 licensee that is primarily used for the service and consumption of food by one or more patrons.

2190 (b) "Dining area" does not include a dispensing area.

2191 (2) "Dispensing area" means an area in the licensed premises of a full-service
 2192 restaurant licensee where a dispensing structure is located and that:

2193 (a) is physically separated from the dining area and any waiting area by a structure or
 2194 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
 2195 dispensing of alcoholic product; or

2196 (b) measures at least 10 feet from any area where alcoholic product is dispensed to the
 2197 dining area and any waiting area, measured from the point of the area where alcoholic product

2198 is dispensed that is closest to the dining area or waiting area.

2199 ~~(+)~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2200 of a full-service restaurant licensee that:

2201 (i) as of May 11, 2009, has:

2202 (A) patron seating at the bar structure;

2203 (B) a partition at one or more locations on the bar structure that is along:

2204 (I) the width of the bar structure; or

2205 (II) the length of the bar structure; and

2206 (C) facilities for the dispensing or storage of an alcoholic product:

2207 (I) on the portion of the bar structure that is separated by the partition described in

2208 Subsection ~~(+)~~ (3)(a)(i)(B); or

2209 (II) if the partition as described in Subsection ~~(+)~~ (3)(a)(i)(B)(II) is adjacent to the bar
2210 structure in a manner visible to a patron sitting at the bar structure;

2211 (ii) is not operational as of May 12, 2009, if:

2212 (A) a person applying for a full-service restaurant license:

2213 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2214 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2215 defined by rule made by the commission; and

2216 (III) is issued the full-service restaurant license by no later than December 31, 2009;

2217 and

2218 (B) once constructed, the licensed premises has a bar structure described in Subsection
2219 ~~(+)~~ (3)(a)(i);

2220 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2221 (iv) is not operational as of May 12, 2009, if:

2222 (A) a person applying for a full-service restaurant license:

2223 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2224 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2225 defined by rule made by the commission; and

2226 (III) is issued a full-service restaurant license by no later than December 31, 2009; and

2227 (B) once constructed, the licensed premises has a bar structure with no patron seating.

2228 (b) "Grandfathered bar structure" does not include a grandfathered bar structure

2259 -- Before July 1, 2018.

2260 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2261 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2262 shall comply with this section.

2263 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2264 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2265 (i) a full-service restaurant licensee;

2266 (ii) individual staff of a full-service restaurant licensee; or

2267 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2268 licensee.

2269 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2270 licensee shall display in a prominent place in the restaurant a list of the types and brand names
2271 of liquor being furnished through the full-service restaurant licensee's calibrated metered
2272 dispensing system.

2273 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2274 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2275 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2276 licensee's premises shall make a written beverage tab for each table or group that orders or
2277 consumes an alcoholic product on the premises.

2278 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2279 alcoholic product ordered or consumed.

2280 (5) A person's willingness to serve an alcoholic product may not be made a condition
2281 of employment as a server with a full-service restaurant licensee.

2282 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
2283 the licensed premises on any day during the period that:

2284 (i) begins at midnight; and

2285 (ii) ends at 11:29 a.m.

2286 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
2287 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
2288 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
2289 11:30 a.m. on any day.

2290 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
2291 business from the sale of food, which does not include:

- 2292 (a) mix for an alcoholic product; or
- 2293 (b) a service charge.

2294 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2295 alcoholic product except after the full-service restaurant licensee confirms that the patron has
2296 the intent to order food prepared, sold, and furnished at the licensed premises.

2297 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2298 culinary facilities for food preparation and dining accommodations.

2299 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2300 more than two alcoholic products of any kind at a time before the patron.

2301 (b) A patron may not have more than one spirituous liquor drink at a time before the
2302 patron.

2303 (c) An individual portion of wine is considered to be one alcoholic product under
2304 Subsection (9)(a).

2305 (10) A patron may consume an alcoholic product only:

- 2306 (a) at:
 - 2307 (i) the patron's table;
 - 2308 (ii) a counter; or
 - 2309 (iii) a seating grandfathered bar structure; and
- 2310 (b) where food is served.

2311 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2312 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2313 structure that is not a seating grandfathered bar structure.

2314 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2315 may:

- 2316 (i) sit;
- 2317 (ii) be furnished an alcoholic product; and
- 2318 (iii) consume an alcoholic product.

2319 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2320 full-service restaurant licensee may not permit a minor to, and a minor may not:

- 2321 (i) sit; or
- 2322 (ii) consume food or beverages.
- 2323 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
- 2324 employed by a full-service restaurant licensee:
- 2325 (A) as provided in Subsection 32B-5-308(2); or
- 2326 (B) to perform maintenance and cleaning services during an hour when the full-service
- 2327 restaurant licensee is not open for business.
- 2328 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 2329 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
- 2330 premises in which the minor is permitted to be.
- 2331 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
- 2332 may dispense an alcoholic product only if:
- 2333 (a) the alcoholic product is dispensed from:
- 2334 (i) a grandfathered bar structure;
- 2335 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
- 2336 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
- 2337 12, 2009; or
- 2338 (iii) an area that is:
- 2339 (A) separated from an area for the consumption of food by a patron by a solid,
- 2340 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
- 2341 an alcoholic product are:
- 2342 (I) not readily visible to a patron; and
- 2343 (II) not accessible by a patron; and
- 2344 (B) apart from an area used:
- 2345 (I) for dining;
- 2346 (II) for staging; or
- 2347 (III) as a lobby or waiting area;
- 2348 (b) the full-service restaurant licensee uses an alcoholic product that is:
- 2349 (i) stored in an area described in Subsection (12)(a); or
- 2350 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 2351 (A) immediately before the alcoholic product is dispensed it is in an unopened

2352 container; (B) the unopened container is taken to an area described in Subsection (12)(a) before
2353 it is opened; and (C) once opened, the container is stored in an area described in Subsection
2354 (12)(a); and

2355 (c) any instrument or equipment used to dispense alcoholic product is located in an
2356 area described in Subsection (12)(a).

2357 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
2358 charge or fee made in connection with the sale, service, or consumption of liquor including:

2359 (a) a set-up charge;

2360 (b) a service charge; or

2361 (c) a chilling fee.

2362 (14) Subject to Subsection 32B-6-205.2(17) and Section 32B-6-205.3, the provisions
2363 of this section apply before July 1, 2018.

2364 Section 37. Section **32B-6-205.2** is enacted to read:

2365 **32B-6-205.2. Specific operational requirements for a full-service restaurant**
2366 **license -- On and after July 1, 2018.**

2367 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2368 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2369 shall comply with this section.

2370 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2371 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2372 (i) a full-service restaurant licensee;

2373 (ii) individual staff of a full-service restaurant licensee; or

2374 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2375 licensee.

2376 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2377 licensee shall display in a conspicuous place at the entrance to the licensed premises a sign
2378 approved by the commission that:

2379 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2380 (b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

2381 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2382 shall store an alcoholic product in a storage area described in Subsection (13)(a).

2383 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2384 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2385 an alcoholic product on the premises.

2386 (b) A beverage tab described in this Subsection (4) shall state:

2387 (i) the type and amount of each alcoholic product ordered or consumed; and

2388 (ii) the time that each alcoholic product is dispensed.

2389 (5) An individual's willingness to serve an alcoholic product may not be made a
2390 condition of employment with a full-service restaurant licensee.

2391 (6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the
2392 licensed premises during the following time periods only:

2393 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2394 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2395 10:30 a.m. and ends at 11:59 p.m.

2396 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the
2397 licensed premises during the following time periods only:

2398 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2399 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2400 10:30 a.m. and ends at 12:59 a.m.

2401 (7) A full-service restaurant licensee shall maintain at least 70% of the full-service
2402 restaurant licensee's total restaurant business from the sale of food, which does not include:

2403 (a) mix for an alcoholic product; or

2404 (b) a service charge.

2405 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2406 alcoholic product except after:

2407 (i) the patron to whom the full-service restaurant licensee sells, offers for sale, or
2408 furnishes the alcoholic product is seated at:

2409 (A) a table that is located in a dining area or a dispensing area;

2410 (B) a counter that is located in a dining area or a dispensing area; or

2411 (C) a dispensing structure located in a dispensing area; and

2412 (ii) the full-service restaurant licensee confirms that the patron has the intent to:

2413 (A) order food prepared, sold, and furnished at the licensed premises; and

2414 (B) consume the food at the same location where the patron is seated and sold, offered
2415 for sale, or furnished the alcoholic product.

2416 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2417 culinary facilities for food preparation and dining accommodations.

2418 (9) A patron may consume an alcoholic product only if the patron is seated at:

2419 (a) a table that is located in a dining area or dispensing area;

2420 (b) a counter that is located in a dining area or dispensing area; or

2421 (c) a dispensing structure located in a dispensing area.

2422 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2423 more than two alcoholic products of any kind at a time before the patron.

2424 (b) A patron may not have more than one spirituous liquor drink at a time before the
2425 patron.

2426 (c) An individual portion of wine is considered to be one alcoholic product under
2427 Subsection (10)(a).

2428 (11) In accordance with the provisions of this section, an individual who is at least 21
2429 years of age may consume food and beverages in a dispensing area.

2430 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2431 consume food or beverages in a dispensing area.

2432 (b) (i) A minor may be in a dispensing area if the minor is employed by the full-service
2433 restaurant licensee:

2434 (A) in accordance with Subsection [32B-5-308\(2\)](#); or

2435 (B) to perform maintenance and cleaning services when the full-service restaurant
2436 licensee is not open for business.

2437 (ii) If there is no alternative route available, a minor may momentarily pass through a
2438 dispensing area without remaining or sitting in the dispensing area en route to an area of
2439 full-service restaurant licensee's premises in which the minor is permitted to be.

2440 (13) Except as provided in Subsection [32B-5-307\(3\)](#), a full-service restaurant licensee
2441 may dispense an alcoholic product only if:

2442 (a) the alcoholic product is dispensed from:

2443 (i) a dispensing structure that is located in a dispensing area; or

2444 (ii) an area that is:

2445 (A) separated from an area for the consumption of food by a patron by a solid,
2446 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2447 an alcoholic product are not readily visible to a patron and not accessible by a patron; and
2448 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;
2449 (b) the full-service restaurant licensee uses an alcoholic product that is stored in an area
2450 described in Subsection (13)(a) or in accordance with Section 32B-5-303; and
2451 (c) any instrument or equipment used to dispense alcoholic product is located in an
2452 area described in Subsection (13)(a).

2453 (14) A full-service restaurant licensee may not:
2454 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or
2455 (b) display an alcoholic product or a product intended to appear like an alcoholic
2456 product by moving a cart or similar device around the licensed premises.

2457 (15) A full-service restaurant licensee may state in a food or alcoholic product menu a
2458 charge or fee made in connection with the sale, service, or consumption of liquor, including:
2459 (a) a set-up charge;
2460 (b) a service charge; or
2461 (c) a chilling fee.

2462 (16) (a) In addition to the requirements described in Section 32B-5-302, a full-service
2463 restaurant licensee shall maintain each of the following records for at least three years:
2464 (i) a record required by Section 32B-5-302; and
2465 (ii) a record that the commission requires a full-service licensee to use or maintain
2466 under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2467 Act.

2468 (b) The department shall audit the records of a full-service restaurant licensee at least
2469 once each calendar year.

2470 (17) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:
2471 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
2472 and
2473 (ii) shall comply with the provisions of this section on and after July 1, 2018.
2474 (b) A full-service restaurant licensee that elects to comply with the provisions of this
2475 section before July 1, 2018:

2476 (i) shall comply with each provision of this section; and

2477 (ii) is not required to comply with the provisions of Section [32B-6-205](#).

2478 Section 38. Section **32B-6-205.3** is enacted to read:

2479 **32B-6-205.3. Transition process for full-service restaurant licensees.**

2480 (1) For a full-service restaurant license issued on or after July 1, 2017, the full-service
2481 restaurant licensee shall comply with the provisions of Section [32B-6-205.2](#).

2482 (2) (a) Before a person who holds a full-service restaurant license on July 1, 2017,
2483 changes the full-service restaurant licensee's approved location for storage, dispensing, or
2484 consumption to comply with the provisions of Section [32B-6-205.2](#), the full-service restaurant
2485 licensee shall obtain approval from the department in accordance with Subsection
2486 [32B-5-303](#)(3).

2487 (b) (i) A full-service restaurant licensee described in Subsection (2)(a) may submit an
2488 application for approval on or after May 9, 2017.

2489 (ii) A full-service restaurant licensee described in Subsection (2)(a) that cannot comply
2490 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant
2491 licensee's approved location for storage, dispensing, or consumption shall, in accordance with
2492 Subsection [32B-5-303](#)(3), submit to the department an application to change the full-service
2493 restaurant licensee's location for storage, dispensing, or consumption no later than May 1,
2494 2018.

2495 (c) If a full-service restaurant licensee submits an application under this section to the
2496 department on May 9, 2017, the department shall take action on the application on or before
2497 July 1, 2017.

2498 Section 39. Section **32B-6-302** is amended to read:

2499 **32B-6-302. Definitions.**

2500 As used in this part:

2501 (1) (a) "Dining area" means an area in the licensed premises of a limited-service
2502 restaurant licensee that is primarily used for the service and consumption of food by one or
2503 more patrons.

2504 (b) "Dining area" does not include a dispensing area.

2505 (2) "Dispensing area" means an area in the licensed premises of a limited-service
2506 restaurant licensee where a dispensing structure is located and that:

2507 (a) is physically separated from the dining area and any waiting area by a structure or
2508 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2509 dispensing of alcoholic product; or

2510 (b) measures at least 10 feet from any area where alcoholic product is dispensed to the
2511 dining area and any waiting area, measured from the point of the area where alcoholic product
2512 is dispensed that is closest to the dining area or waiting area.

2513 ~~(1)~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2514 of a limited-service restaurant licensee that:

2515 (i) as of May 11, 2009, has:

2516 (A) patron seating at the bar structure;

2517 (B) a partition at one or more locations on the bar structure that is along:

2518 (I) the width of the bar structure; or

2519 (II) the length of the bar structure; and

2520 (C) facilities for the dispensing or storage of an alcoholic product:

2521 (I) on the portion of the bar structure that is separated by the partition described in

2522 Subsection ~~(1)~~ (3)(a)(i)(B); or

2523 (II) if the partition as described in Subsection ~~(1)~~ (3)(a)(i)(B)(II) is adjacent to the bar
2524 structure in a manner visible to a patron sitting at the bar structure;

2525 (ii) is not operational as of May 12, 2009, if:

2526 (A) a person applying for a limited-service restaurant license:

2527 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2528 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2529 defined by rule made by the commission; and

2530 (III) is issued the limited-service restaurant license by no later than December 31,
2531 2009; and

2532 (B) once constructed, the licensed premises has a bar structure described in Subsection
2533 ~~(1)~~ (3)(a)(i);

2534 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2535 (iv) is not operational as of May 12, 2009, if:

2536 (A) a person applying for a limited-service restaurant license:

2537 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2538 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2539 defined by rule made by the commission; and

2540 (III) is issued a limited-service restaurant license by no later than December 31, 2009;
2541 and

2542 (B) once constructed, the licensed premises has a bar structure with no patron seating.

2543 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
2544 described in Subsection ~~[(1)]~~ (3)(a) on or after the day on which a restaurant remodels the
2545 grandfathered bar structure, as defined by rule made by the commission.

2546 (c) Subject to Subsection ~~[(1)]~~ (3)(b), a grandfathered bar structure remains a
2547 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
2548 ownership.

2549 ~~[(2)]~~ (4) "Seating grandfathered bar structure" means:

2550 (a) a grandfathered bar structure described in Subsection ~~[(1)]~~ (3)(a)(i) or (ii); or

2551 (b) a bar structure grandfathered under Section 32B-6-409.

2552 (5) "Waiting area" includes a lobby.

2553 ~~[(3)]~~ (6) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec.
2554 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner
2555 of wine containing not less than 7% and not more than 24% of alcohol by volume:

2556 (a) sparkling and carbonated wine;

2557 (b) wine made from condensed grape must;

2558 (c) wine made from other agricultural products than the juice of sound, ripe grapes;

2559 (d) imitation wine;

2560 (e) compounds sold as wine;

2561 (f) vermouth;

2562 (g) cider;

2563 (h) perry; and

2564 (i) sake.

2565 Section 40. Section 32B-6-305 is amended to read:

2566 **32B-6-305. Specific operational requirements for a limited-service restaurant**
2567 **license -- Before July 1, 2018.**

2568 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

2569 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2570 licensee shall comply with this section.

2571 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2572 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 2573 (i) a limited-service restaurant licensee;
- 2574 (ii) individual staff of a limited-service restaurant licensee; or
- 2575 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2576 licensee.

2577 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
2578 for sale, furnish, or allow consumption of:

- 2579 (i) spirituous liquor; or
- 2580 (ii) a flavored malt beverage.

2581 (b) A product listed in Subsection (2)(a) may not be on the premises of a
2582 limited-service restaurant licensee except for use:

- 2583 (i) as a flavoring on a dessert; and
- 2584 (ii) in the preparation of a flaming food dish, drink, or dessert.

2585 (3) In addition to complying with Section [32B-5-303](#), a limited-service restaurant
2586 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2587 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2588 licensee's premises shall make a written beverage tab for each table or group that orders or
2589 consumes an alcoholic product on the premises.

2590 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2591 alcoholic product ordered or consumed.

2592 (5) A person's willingness to serve an alcoholic product may not be made a condition
2593 of employment as a server with a limited-service restaurant licensee.

2594 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
2595 or heavy beer at the licensed premises on any day during the period that:

- 2596 (i) begins at midnight; and
- 2597 (ii) ends at 11:29 a.m.

2598 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
2599 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,

2600 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
2601 before 11:30 a.m. on any day.

2602 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
2603 restaurant business from the sale of food, which does not include a service charge.

2604 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2605 alcoholic product except after the limited-service restaurant licensee confirms that the patron
2606 has the intent to order food prepared, sold, and furnished at the licensed premises.

2607 (b) A limited-service restaurant licensee shall maintain on the licensed premises
2608 adequate culinary facilities for food preparation and dining accommodations.

2609 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2610 more than two alcoholic products of any kind at a time before the patron.

2611 (b) An individual portion of wine is considered to be one alcoholic product under
2612 Subsection (9)(a).

2613 (10) A patron may consume an alcoholic product only:

2614 (a) at:

2615 (i) the patron's table;

2616 (ii) a counter; or

2617 (iii) a seating grandfathered bar structure; and

2618 (b) where food is served.

2619 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2620 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2621 structure that is not a seating grandfathered bar structure.

2622 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2623 may:

2624 (i) sit;

2625 (ii) be furnished an alcoholic product; and

2626 (iii) consume an alcoholic product.

2627 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2628 limited-service restaurant licensee may not permit a minor to, and a minor may not:

2629 (i) sit; or

2630 (ii) consume food or beverages.

2631 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
2632 employed by a limited-service restaurant licensee:

2633 (A) as provided in Subsection 32B-5-308(2); or

2634 (B) to perform maintenance and cleaning services during an hour when the
2635 limited-service restaurant licensee is not open for business.

2636 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
2637 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
2638 licensee's premises in which the minor is permitted to be.

2639 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
2640 licensee may dispense an alcoholic product only if: (a) the alcoholic product is dispensed from:

2641 (i) a grandfathered bar structure;

2642 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2643 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2644 12, 2009; or

2645 (iii) an area that is:

2646 (A) separated from an area for the consumption of food by a patron by a solid,
2647 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2648 an alcoholic product are:

2649 (I) not readily visible to a patron; and

2650 (II) not accessible by a patron; and

2651 (B) apart from an area used:

2652 (I) for dining;

2653 (II) for staging; or

2654 (III) as a lobby or waiting area;

2655 (b) the limited-service restaurant licensee uses an alcoholic product that is:

2656 (i) stored in an area described in Subsection (12)(a); or

2657 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2658 (A) immediately before the alcoholic product is dispensed it is in an unopened
2659 container;

2660 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
2661 is opened; and

2662 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
2663 (c) any instrument or equipment used to dispense alcoholic product is located in an
2664 area described in Subsection (12)(a).

2665 (13) A limited-service restaurant licensee may state in a food or alcoholic product
2666 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2667 heavy beer including:

- 2668 (a) a set-up charge;
- 2669 (b) a service charge; or
- 2670 (c) a chilling fee.

2671 (14) Subject to Subsection 32B-6-305.2(17) and Section 32B-6-305.3, the provisions
2672 of this section apply before July 1, 2018.

2673 Section 41. Section 32B-6-305.2 is enacted to read:

2674 **32B-6-305.2. Specific operational requirements for a limited-service restaurant**
2675 **license -- On and after July 1, 2018.**

2676 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2677 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2678 licensee shall comply with this section.

2679 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2680 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 2681 (i) a limited-service restaurant licensee;
- 2682 (ii) individual staff of a limited-service restaurant licensee; or
- 2683 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2684 licensee.

2685 (2) In addition to complying with Subsection 32B-5-301(3), a limited-service
2686 restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises
2687 a sign approved by the commission that:

- 2688 (a) measures at least 8-1/2 inches long and 11 inches wide; and
- 2689 (b) clearly states that the limited-service restaurant licensee is a restaurant and not a
2690 bar.

2691 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
2692 licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

2693 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2694 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2695 an alcoholic product on the premises.

2696 (b) A beverage tab described in this Subsection (4) shall state:

2697 (i) the type and amount of each alcoholic product ordered or consumed; and

2698 (ii) the time that each alcoholic product is dispensed.

2699 (5) An individual's willingness to serve an alcoholic product may not be made a
2700 condition of employment with a limited-service restaurant licensee.

2701 (6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish liquor at
2702 the licensed premises during the following time periods only:

2703 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2704 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2705 10:30 a.m. and ends at 11:59 p.m.

2706 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the
2707 licensed premises during the following time periods only:

2708 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2709 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2710 10:30 a.m. and ends at 12:59 a.m.

2711 (7) A limited-service restaurant licensee shall maintain at least 70% of the
2712 limited-service restaurant licensee's total restaurant business from the sale of food, which does
2713 not include:

2714 (a) mix for an alcoholic product; or

2715 (b) a service charge.

2716 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2717 alcoholic product except after:

2718 (i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or
2719 furnishes the alcoholic product is seated at:

2720 (A) a table that is located in a dining area or a dispensing area;

2721 (B) a counter that is located in a dining area or a dispensing area; or

2722 (C) a dispensing structure located in a dispensing area; and

2723 (ii) the limited-service restaurant licensee confirms that the patron has the intent to:

- 2724 (A) order food prepared, sold, and furnished at the licensed premises; and
2725 (B) consume the food at the same location where the patron is seated and sold, offered
2726 for sale, or furnished the alcoholic product.
- 2727 (b) A limited-service restaurant licensee shall maintain on the licensed premises
2728 adequate culinary facilities for food preparation and dining accommodations.
- 2729 (9) A patron may consume an alcoholic product only if the patron is seated at:
2730 (a) a table that is located in a dining area or a dispensing area;
2731 (b) a counter that is located in a dining area or a dispensing area; or
2732 (c) a dispensing structure located in a dispensing area.
- 2733 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2734 more than two alcoholic products of any kind at a time before the patron.
- 2735 (b) A patron may not have more than one spirituous liquor drink at a time before the
2736 patron.
- 2737 (c) An individual portion of wine is considered to be one alcoholic product under
2738 Subsection (10)(a).
- 2739 (11) In accordance with the provisions of this section, an individual who is at least 21
2740 years of age may consume food and beverages in a dispensing area.
- 2741 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2742 consume food or beverages in a dispensing area.
- 2743 (b) (i) A minor may be in a dispensing area if the minor is employed by the
2744 limited-service restaurant licensee:
- 2745 (A) in accordance with Subsection [32B-5-308\(2\)](#); or
2746 (B) to perform maintenance and cleaning services when the limited-service restaurant
2747 licensee is not open for business.
- 2748 (ii) If there is no alternative route available, a minor may momentarily pass through a
2749 dispensing area without remaining or sitting in the dispensing area en route to an area of the
2750 limited-service restaurant licensee's premises in which the minor is permitted to be.
- 2751 (13) Except as provided in Subsection [32B-5-307\(3\)](#), a limited-service restaurant
2752 licensee may dispense an alcoholic product only if:
- 2753 (a) the alcoholic product is dispensed from:
2754 (i) a dispensing structure that is located in a dispensing area; or

2755 (ii) an area that is:
2756 (A) separated from an area for the consumption of food by a patron by a solid,
2757 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2758 an alcoholic product are not readily visible to a patron and not accessible by a patron; and
2759 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;
2760 (b) the limited-service restaurant licensee uses an alcoholic product that is stored in an
2761 area described in Subsection (13)(a) or in accordance with Section [32B-5-303](#); and
2762 (c) any instrument or equipment used to dispense alcoholic product is located in an
2763 area described in Subsection (13)(a).

2764 (14) A limited-service restaurant licensee may not:
2765 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or
2766 (b) display an alcoholic product or a product intended to appear like an alcoholic
2767 product by moving a cart or similar device around the licensed premises.

2768 (15) A limited-service restaurant licensee may state in a food or alcoholic product
2769 menu a charge or fee made in connection with the sale, service, or consumption of liquor,
2770 including:
2771 (a) a set-up charge;
2772 (b) a service charge; or
2773 (c) a chilling fee.

2774 (16) (a) In addition to the requirements described in Section [32B-5-302](#), a
2775 limited-service restaurant licensee shall maintain each of the following records for at least three
2776 years:
2777 (i) a record required by Section [32B-5-302](#); and
2778 (ii) a record that the commission requires a limited-service restaurant licensee to use or
2779 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2780 Rulemaking Act.
2781 (b) The department shall audit the records of a limited-service restaurant licensee at
2782 least once each calendar year.

2783 (17) (a) In accordance with Section [32B-6-305.3](#), a limited-service restaurant licensee:
2784 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
2785 and

2786 (ii) shall comply with the provisions of this section on and after July 1, 2018.
2787 (b) A limited-service restaurant licensee that elects to comply with the provisions of
2788 this section before July 1, 2018:

2789 (i) shall comply with each provision of this section; and
2790 (ii) is not required to comply with the provisions of Section [32B-6-305](#).

2791 Section 42. Section **32B-6-305.3** is enacted to read:

2792 **32B-6-305.3. Transition process for limited-service restaurant licensees.**

2793 (1) For a limited-service restaurant license issued on or after July 1, 2017, the
2794 limited-service restaurant licensee shall comply with the provisions of Section [32B-6-305.2](#).

2795 (2) (a) Before a person who holds a limited-service restaurant license on July 1, 2017,
2796 changes the limited-service restaurant licensee's approved location for storage, dispensing, or
2797 consumption to comply with the provisions of Section [32B-6-305.2](#), the limited-service
2798 restaurant licensee shall obtain approval from the department in accordance with Subsection
2799 [32B-5-303](#)(3).

2800 (b) (i) A limited-service restaurant licensee described in Subsection (2)(a) may submit
2801 an application for approval on or after May 9, 2017.

2802 (ii) A limited-service restaurant licensee described in Subsection (2)(a) that cannot
2803 comply with the provisions of Section [32B-6-305.2](#) without a change to the limited-service
2804 restaurant licensee's approved location for storage, dispensing, or consumption shall, in
2805 accordance with Subsection [32B-5-303](#)(3), submit to the department an application to change
2806 the limited-service restaurant licensee's location for storage, dispensing, or consumption no
2807 later than May 1, 2018.

2808 (c) If a limited-service restaurant licensee submits an application under this section to
2809 the department on May 9, 2017, the department shall take action on the application on or
2810 before July 1, 2017.

2811 Section 43. Section **32B-6-401** is amended to read:

2812 **Part 4. Bar Establishment License**

2813 **32B-6-401. Title.**

2814 This part is known as "[~~Club~~] Bar Establishment License."

2815 Section 44. Section **32B-6-403** is amended to read:

2816 **32B-6-403. Commission's power to issue bar establishment license.**

2817 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2818 an alcoholic product on its premises as a [~~club~~] bar establishment licensee, the person shall first
2819 obtain a [~~club~~] bar establishment license from the commission in accordance with this part.

2820 (2) The commission may issue a [~~club~~] bar establishment license to establish [~~club~~] bar
2821 establishment licensed premises at places and in numbers the commission considers proper for
2822 the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on
2823 premises operated by a [~~club~~] bar establishment licensee.

2824 (3) Subject to Section 32B-1-201:

2825 (a) (i) [~~The~~] before July 1, 2018, the commission may not issue a total number of
2826 [~~club~~] bar establishment licenses that at any time exceeds the number determined by dividing
2827 the population of the state by 7,850[-]; and

2828 (ii) beginning on July 1, 2018, the commission may not issue a total number of bar
2829 establishment licenses that at any time exceeds the number determined by dividing the
2830 population of the state by 10,538;

2831 (b) the commission may issue a seasonal [~~club~~] bar establishment license in accordance
2832 with Section 32B-5-206 to:

2833 (i) a dining club licensee; or

2834 (ii) a [~~social-club~~] bar licensee[-];

2835 (c) (i) if the location, design, and construction of a hotel may require more than one
2836 dining club license or [~~social-club~~] bar license location within the hotel to serve the public
2837 convenience, the commission may authorize as many as three [~~club~~] bar establishment license
2838 locations within the hotel under one [~~club~~] bar establishment license if:

2839 (A) the hotel has a minimum of 150 guest rooms;

2840 (B) all locations under the [~~club~~] bar establishment license are:

2841 (I) within the same hotel; and

2842 (II) on premises that are managed or operated, and owned or leased, by the [~~club~~] bar
2843 establishment licensee; and

2844 (C) the locations under the [~~club~~] bar establishment license operate under the same
2845 type of [~~club~~] bar establishment license[-]; and

2846 (ii) a facility other than a hotel shall have a separate [~~club~~] bar establishment license
2847 for each [~~club~~] bar establishment license location where an alcoholic product is sold, offered

2848 for sale, or furnished[-];

2849 (d) when a business establishment undergoes a change of ownership, the commission
2850 may issue a [club] bar establishment license to the new owner of the business establishment
2851 notwithstanding that there is no [club] bar establishment license available under Subsection
2852 (3)(a) if:

2853 (i) the primary business activity at the business establishment before and after the
2854 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

2855 (ii) before the change of ownership there are two or more licensed premises on the
2856 business establishment that operate under a retail license, with at least one of the retail licenses
2857 being a [club] bar establishment license;

2858 (iii) subject to Subsection (3)(e), the licensed premises of the [club] bar establishment
2859 license issued under this Subsection (3)(d) is at the same location where the [club] bar
2860 establishment license licensed premises was located before the change of ownership; and

2861 (iv) the person who is the new owner of the business establishment qualifies for the
2862 [club] bar establishment license, except for there being no [club] bar establishment license
2863 available under Subsection (3)(a)[-]; and

2864 (e) if a [club] bar establishment licensee of a [club] bar establishment license issued
2865 under Subsection (3)(d) requests a change of location, the [club] bar establishment licensee
2866 may retain the [club] bar establishment license after the change of location only if on the day
2867 on which the [club] bar establishment licensee seeks a change of location a [club] bar
2868 establishment license is available under Subsection (3)(a).

2869 Section 45. Section **32B-6-404** is amended to read:

2870 **32B-6-404. Types of bar license.**

2871 (1) To obtain an equity [club] license, in addition to meeting the other requirements of
2872 this part, a person shall:

2873 (a) whether incorporated or unincorporated:

2874 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2875 purpose;

2876 (ii) have members;

2877 (iii) limit access to its licensed premises to a member or a guest of the member; and

2878 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold

2879 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2880 (b) own, maintain, or operate a substantial recreational facility in conjunction with a

2881 club house such as:

2882 (i) a golf course; or

2883 (ii) a tennis facility;

2884 (c) have at least 50% of the total membership having:

2885 (i) full voting rights; and

2886 (ii) an equal share of the equity of the [~~club~~] entity or a right to redemption or refund at

2887 the equal value; and

2888 (d) if there is more than one class of membership, have at least one class of

2889 membership that entitles each member in that class to:

2890 (i) full voting rights; and

2891 (ii) an equal share of the equity of the [~~club~~] entity or a right to redemption or equal

2892 value.

2893 (2) To obtain a fraternal [~~club~~] license, in addition to meeting the other requirements of

2894 this part, a person shall:

2895 (a) whether incorporated or unincorporated:

2896 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal

2897 purpose;

2898 (ii) have members;

2899 (iii) limit access to its licensed premises to a member or a guest of the member; and

2900 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold

2901 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2902 (b) have no capital stock;

2903 (c) exist solely for:

2904 (i) the benefit of its members and their beneficiaries; and

2905 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,

2906 patriotic, or religious purpose for the benefit of its members or the public, carried on through

2907 voluntary activity of its members in their local lodges;

2908 (d) have a representative form of government;

2909 (e) have a lodge system in which:

- 2910 (i) there is a supreme governing body;
- 2911 (ii) subordinate to the supreme governing body are local lodges, however designated,
2912 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 2913 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at
2914 least monthly; and
- 2915 (iv) the local lodges regularly engage in one or more programs involving member
2916 participation to implement the purposes of Subsection (2)(c); and
- 2917 (f) own or lease a building or space in a building used for lodge activities.
- 2918 (3) To obtain a dining club license, in addition to meeting the other requirements of
2919 this part, a person shall:
- 2920 (a) maintain at least the following percentages of its total club business from the sale of
2921 food, not including mix for alcoholic products, or service charges:
- 2922 (i) for a dining club license that is issued as an original license on or after July 1, 2011,
2923 60%; and
- 2924 (ii) for a dining club license that is issued on or before June 30, 2011:
- 2925 (A) 50% on or before June 30, 2012; and
- 2926 (B) 60% on and after July 1, 2012; and
- 2927 (b) obtain a determination by the commission that the person will operate as a dining
2928 club licensee, as part of which the commission may consider:
- 2929 (i) the square footage and seating capacity of the premises;
- 2930 (ii) what portion of the square footage and seating capacity will be used for a dining
2931 area in comparison to the portion that will be used as a lounge or bar area;
- 2932 (iii) whether full meals including appetizers, main courses, and desserts are served;
- 2933 (iv) whether the person will maintain adequate on-premise culinary facilities to prepare
2934 full meals, except a person who is located on the premise of a hotel or resort facility may use
2935 the culinary facilities of the hotel or resort facility;
- 2936 (v) whether the entertainment provided at the [~~club~~] premises is suitable for minors;
2937 and
- 2938 (vi) the club management's ability to manage and operate a dining club license
2939 including:
- 2940 (A) management experience;

2941 (B) past dining club licensee or restaurant management experience; and

2942 (C) the type of management scheme used by the dining club license.

2943 (4) To obtain a ~~[social club]~~ bar license, a person is required to meet the requirements
2944 of this part except those listed in Subsection (1), (2), or (3).

2945 (5) (a) At the time that the commission issues a ~~[club]~~ bar establishment license, the
2946 commission shall designate the type of ~~[club]~~ bar establishment license for which the person
2947 qualifies.

2948 (b) If requested by a ~~[club]~~ bar establishment licensee, the commission may approve a
2949 change in the type of ~~[club]~~ bar establishment license in accordance with rules made by the
2950 commission.

2951 (6) To the extent not prohibited by law, this part does not prevent a dining club
2952 licensee or ~~[social club]~~ bar licensee from restricting access to the ~~[club's]~~ licensed premises on
2953 the basis of an individual:

2954 (a) paying a fee; or

2955 (b) agreeing to being on a list of individuals who have access to the ~~[club's]~~ licensed
2956 premises.

2957 (7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining
2958 club license.

2959 (ii) Effective July 1, 2018, the department shall convert each dining club license to a
2960 full-service restaurant license or a bar license in accordance with the provisions of this section.

2961 (b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the
2962 department no later than May 31, 2018, whether effective July 1, 2018, the person elects to be
2963 licensed as a full-service restaurant or a bar.

2964 (B) Effective July 1, 2018, the department shall convert a dining club license to a
2965 full-service restaurant license or a bar license in accordance with the dining club licensee's
2966 election under Subsection (7)(b)(i)(A).

2967 (ii) If a dining club licensee fails to timely notify the department in accordance with
2968 Subsection (7)(b)(i), the dining club license is automatically changed to a full-service
2969 restaurant license on July 1, 2018.

2970 (c) After a dining club license converts to a full-service restaurant license or a bar
2971 license, the retail licensee shall operate under the provisions that govern the full-service

2972 restaurant license or the bar license, as applicable.

2973 (d) After a dining club license converts to a full-service restaurant license or a bar
2974 license in accordance with this Subsection (7):

2975 (i) the full-service restaurant license is not considered in determining the total number
2976 of full-service restaurant licenses available under Section [32B-6-203](#); or

2977 (ii) the bar license is not considered in determining the total number of bar
2978 establishment licenses available under Section [32B-6-403](#).

2979 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2980 commission may make rules establishing a procedure by which a dining club licensee elects
2981 and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

2982 Section 46. Section **32B-6-405** is amended to read:

2983 **32B-6-405. Specific licensing requirements for bar establishment license.**

2984 (1) To obtain a [~~club~~] bar establishment license, in addition to complying with Chapter
2985 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

2986 (a) (i) a statement as to whether the person is seeking to qualify as:

2987 (A) an equity [~~club~~] licensee;

2988 (B) a fraternal [~~club~~] licensee;

2989 (C) a dining club licensee; or

2990 (D) a [~~social club~~] bar licensee; and

2991 (ii) evidence that the person meets the requirements for the type of [~~club~~] bar
2992 establishment license for which the person is applying;

2993 (b) evidence that the person operates [~~club~~] a premises where a variety of food is
2994 prepared and served in connection with dining accommodations; and

2995 (c) if the person is applying for an equity [~~club~~] license or fraternal [~~club~~] license, a
2996 copy of the [~~club's~~] entity's bylaws or house rules, and an amendment to those records.

2997 (2) The commission may refuse to issue a [~~club~~] bar establishment license to a person
2998 for an equity [~~club~~] license or fraternal [~~club~~] license if the commission determines that a
2999 provision of the person's bylaws or house rules, or amendments to those records is not:

3000 (a) reasonable; and

3001 (b) consistent with:

3002 (i) the declared nature and purpose of the [~~club~~] bar establishment licensee; and

3003 (ii) the purposes of this part.

3004 (3) (a) A ~~club~~ bar establishment license expires on June 30 of each year.

3005 (b) To renew a ~~club~~ bar establishment license, a person shall comply with the
3006 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.

3007 (4) (a) The nonrefundable application fee for a ~~club~~ bar establishment license is \$300.

3008 (b) The initial license fee for a ~~club~~ bar establishment license is \$2,750.

3009 (c) The renewal fee for a ~~club~~ bar establishment license is \$2,000.

3010 (5) The bond amount required for a ~~club~~ bar establishment license is the penal sum of
3011 \$10,000.

3012 Section 47. Section **32B-6-406** is amended to read:

3013 **32B-6-406. Specific operational requirements for a bar establishment license.**

3014 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3015 Requirements, a ~~club~~ bar establishment licensee and staff of the ~~club~~ bar establishment
3016 licensee shall comply with this section.

3017 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3018 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3019 (i) a ~~club~~ bar establishment licensee;

3020 (ii) individual staff of a ~~club~~ bar establishment licensee; or

3021 (iii) both a ~~club~~ bar establishment licensee and staff of the ~~club~~ bar establishment
3022 licensee.

3023 (2) In addition to complying with Subsection **32B-5-301**(3), a ~~club~~ bar licensee shall
3024 display in a ~~[prominent place in the club]~~ conspicuous place at the entrance to the licensed
3025 ~~premises a [list of the types and brand names of liquor being furnished through the club~~
3026 ~~licensee's calibrated metered dispensing system.]~~ sign approved by the commission that:

3027 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3028 (b) clearly states that the bar licensee is a bar and not a restaurant.

3029 (3) (a) In addition to complying with Section **32B-5-302**, a ~~club~~ bar establishment
3030 licensee shall maintain for a minimum of three years:

3031 (i) a record required by Section **32B-5-302**; and

3032 (ii) a record maintained or used by the ~~club~~ bar establishment licensee, as the
3033 department requires.

3034 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in
3035 accordance with this Subsection (3).

3036 (c) The department shall audit the records of a ~~club~~ bar establishment licensee at least
3037 once annually.

3038 (4) (a) A ~~club~~ bar establishment licensee may not sell, offer for sale, or furnish liquor
3039 on the licensed premises on any day during a period that:

3040 (i) begins at 1 a.m.; and

3041 (ii) ends at 9:59 a.m.

3042 (b) A ~~club~~ bar establishment licensee may sell, offer for sale, or furnish beer during
3043 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer
3044 license.

3045 (c) (i) Notwithstanding Subsections (4)(a) and (b), a ~~club~~ bar establishment licensee
3046 shall keep its licensed premises open for one hour after the ~~club~~ bar establishment licensee
3047 ceases the sale and furnishing of an alcoholic product during which time a patron of the ~~club~~
3048 bar establishment licensee may finish consuming:

3049 (A) a single drink containing spirituous liquor;

3050 (B) a single serving of wine not exceeding five ounces;

3051 (C) a single serving of heavy beer;

3052 (D) a single serving of beer not exceeding 26 ounces; or

3053 (E) a single serving of a flavored malt beverage.

3054 (ii) A ~~club~~ bar establishment licensee is not required to remain open:

3055 (A) after all patrons have vacated the premises; or

3056 (B) during an emergency.

3057 (5) (a) A minor may not be admitted into, use, or be in:

3058 (i) a lounge or bar area of the premises of:

3059 (A) an equity ~~club~~ licensee;

3060 (B) a fraternal ~~club~~ licensee; or

3061 (C) a dining club licensee; or

3062 (ii) the premises of:

3063 (A) a dining club licensee unless accompanied by an individual who is 21 years of age

3064 or older; or

3065 (B) a [~~social club~~] bar licensee, except to the extent provided for under Section
3066 32B-6-406.1.

3067 (b) Notwithstanding Section 32B-5-308, a [~~club~~] bar establishment licensee may not
3068 employ a minor to:

3069 (i) work in a lounge or bar area of an equity [~~club~~] licensee, fraternal [~~club~~] licensee, or
3070 dining club licensee; or

3071 (ii) handle an alcoholic product.

3072 (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed
3073 premises of a [~~social club~~] bar licensee.

3074 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
3075 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
3076 [~~club~~] bar establishment licensee.

3077 (6) A [~~club~~] bar establishment licensee shall have food available at all times when an
3078 alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

3079 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
3080 more than two alcoholic products of any kind at a time before the patron.

3081 (b) A patron may not have two spirituous liquor drinks before the [~~club~~] bar
3082 establishment licensee patron if one of the spirituous liquor drinks consists only of the primary
3083 spirituous liquor for the other spirituous liquor drink.

3084 (c) An individual portion of wine is considered to be one alcoholic product under
3085 Subsection (7)(a).

3086 (8) A [~~club~~] bar establishment licensee shall have available on the premises for a
3087 patron to review at the time that the patron requests it, a written alcoholic product price list or a
3088 menu containing the price of an alcoholic product sold, offered for sale, or furnished by the
3089 [~~club~~] bar establishment licensee including:

3090 (a) a set-up charge;

3091 (b) a service charge; or

3092 (c) a chilling fee.

3093 (9) Subject to Section 32B-5-309, a [~~club~~] bar establishment licensee may not
3094 temporarily rent or otherwise temporarily lease its premises to a person unless:

3095 (a) the person to whom the [~~club~~] bar establishment licensee rents or leases the

3096 premises agrees in writing to comply with this title as if the person is the ~~[club]~~ bar
 3097 establishment licensee, except for a requirement related to making or maintaining a record; and

3098 (b) the ~~[club]~~ bar establishment licensee takes reasonable steps to ensure that the
 3099 person complies with this section as provided in Subsection (9)(a).

3100 (10) If a ~~[club]~~ bar establishment licensee is an equity ~~[club]~~ licensee or fraternal ~~[club]~~
 3101 licensee, the ~~[club]~~ bar establishment licensee shall comply with Section 32B-6-407.

3102 (11) If a ~~[club]~~ bar establishment licensee is a dining club licensee or ~~[social club]~~ bar
 3103 licensee, the ~~[club]~~ bar establishment licensee shall comply with Section 32B-1-407.

3104 (12) (a) A ~~[club]~~ bar establishment licensee shall own or lease premises suitable for the
 3105 ~~[club]~~ bar establishment licensee's activities.

3106 (b) A ~~[club]~~ bar establishment licensee may not maintain licensed premises in a
 3107 manner that barricades or conceals the ~~[club]~~ bar establishment licensee's operation.

3108 Section 48. Section 32B-6-406.1 is amended to read:

3109 **32B-6-406.1. Specific operational restrictions related to dance or concert hall.**

3110 (1) A minor who is at least 18 years of age may be admitted into, use, or be on the
 3111 premises of a dance or concert hall if:

3112 (a) the dance or concert hall is located:

3113 (i) on the licensed premises of a ~~[social club]~~ bar licensee; or

3114 (ii) on the property that immediately adjoins the licensed premises of and is operated
 3115 by a ~~[social club]~~ bar licensee; and

3116 (b) the ~~[social club]~~ bar licensee holds a permit to operate a dance or concert hall that
 3117 was issued on or before May 11, 2009:

3118 (i) on the basis of the operational requirements described in Subsection (2); and

3119 (ii) when the ~~[social club]~~ bar licensee was licensed as a class D private club.

3120 (2) A ~~[social club]~~ bar licensee that holds a dance or concert hall permit shall operate
 3121 in such a way that:

3122 (a) the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for
 3123 alcoholic product consumption is:

3124 (i) not accessible to a minor;

3125 (ii) clearly defined; and

3126 (iii) separated from the dance or concert hall area by one or more walls, multiple floor

3127 levels, or other substantial physical barriers;

3128 (b) [~~a bar or dispensing~~] a dispensing structure or area where alcoholic product is
3129 dispensed is not visible to a minor;

3130 (c) consumption of an alcoholic product may not occur in:

3131 (i) the dance or concert hall area; or

3132 (ii) an area of the [~~social club~~] bar license premises accessible to a minor;

3133 (d) the [~~social club~~] bar licensee maintains sufficient security personnel to prevent the
3134 passing of beverages from the [~~social club~~] bar licensee's lounge, [~~bar~~] dispensing structure, or
3135 other area for alcoholic product consumption to:

3136 (i) the dance or concert hall area; or

3137 (ii) an area of the [~~social club~~] bar licensee premises accessible to a minor;

3138 (e) there are one or more separate entrances, exits, and restroom facilities from the
3139 [~~social club~~] bar licensee's lounge, [~~bar~~] dispensing structure, or other area for alcoholic
3140 product consumption than for:

3141 (i) the dance or concert hall area; or

3142 (ii) an area accessible to a minor; and

3143 (f) the [~~social club~~] bar licensee complies with any other requirements imposed by the
3144 commission by rule.

3145 (3) (a) A minor under 18 years of age who is accompanied at all times by a parent or
3146 legal guardian may be admitted into, use, or be on the premises of a concert hall described in
3147 Subsection (1) if:

3148 (i) the requirements of Subsection (2) are met; and

3149 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
3150 product is not visible to the minor.

3151 (b) A minor under 18 years of age but who is 14 years of age or older who is not
3152 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
3153 a concert hall described in Subsection (1) if:

3154 (i) the requirements of Subsections (2) and (3)(a) are met; and

3155 (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of
3156 the [~~social club~~] bar licensee.

3157 (4) The commission may suspend or revoke a dance or concert permit issued to a

3158 ~~[social club]~~ bar licensee and suspend or revoke the license of the ~~[social club]~~ bar licensee if:

3159 (a) the ~~[social club]~~ bar licensee fails to comply with the requirements in this section;

3160 (b) the ~~[social club]~~ bar licensee sells, offers for sale, or furnishes an alcoholic product

3161 to a minor;

3162 (c) the ~~[social club]~~ bar licensee or a supervisory or managerial level staff of the ~~[social~~

3163 ~~club]~~ bar licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on

3164 the basis of an activity that occurs on:

3165 (i) the licensed premises; or

3166 (ii) the dance or concert hall that is located on property that immediately adjoins the

3167 licensed premises of and is operated by the ~~[social club]~~ bar licensee;

3168 (d) there are three or more convictions of patrons of the ~~[social club]~~ bar licensee under

3169 Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:

3170 (i) the licensed premises; or

3171 (ii) the dance or concert hall that is located on property that immediately adjoins the

3172 licensed premises of and is operated by the ~~[social club]~~ bar licensee;

3173 (iii) there is more than one conviction:

3174 (A) of:

3175 (I) the ~~[social club]~~ bar licensee;

3176 (II) staff of the ~~[social club]~~ bar licensee;

3177 (III) an entertainer contracted by the ~~[social club]~~ bar licensee; or

3178 (IV) a patron of the ~~[social club]~~ bar licensee; and

3179 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that

3180 occurs on:

3181 (I) the licensed premises; or

3182 (II) the dance or concert hall that is located on property that immediately adjoins the

3183 licensed premises of and is operated by the ~~[social club]~~ bar licensee; or

3184 (e) the commission finds acts or conduct contrary to the public welfare and morals

3185 involving lewd acts or lewd entertainment prohibited by this title that occurs on:

3186 (i) the licensed premises; or

3187 (ii) the dance or concert hall that is located on property that immediately adjoins the

3188 licensed premises of and is operated by the ~~[social club]~~ bar licensee.

3189 (5) Nothing in this section prohibits a [~~social club~~] bar licensee from selling, offering
3190 for sale, or furnishing an alcoholic product in a dance or concert area located on the [~~social~~
3191 ~~club~~] bar licensed premises on days and times when the [~~social club~~] bar licensee does not
3192 allow a minor into those areas.

3193 Section 49. Section **32B-6-407** is amended to read:

3194 **32B-6-407. Specific operational requirements for equity license or fraternal**
3195 **license.**

3196 (1) [~~For purposes of~~] As used in this section [~~only: (a) "Club~~], "equity or fraternal
3197 licensee" means an equity [~~club~~] licensee or fraternal [~~club~~] licensee.

3198 [~~(b) "Club licensee" does not include a dining club licensee or social club licensee.~~]

3199 (2) (a) [~~A club~~] An equity or fraternal licensee shall have a governing body that:

3200 (i) consists of three or more members of the [~~club~~] equity or fraternal licensee; and

3201 (ii) holds regular meetings to:

3202 (A) review membership applications; and

3203 (B) conduct other business as required by the bylaws or house rules of the [~~club~~] equity
3204 or fraternal licensee.

3205 (b) (i) [~~A club~~] An equity or fraternal licensee shall maintain a minute book that is
3206 posted currently by the [~~club~~] equity or fraternal licensee.

3207 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
3208 regular or special meeting of the governing body.

3209 (3) [~~A club~~] An equity or fraternal licensee may admit an individual as a member only
3210 on written application signed by the person, subject to:

3211 (a) the person paying an application fee; and

3212 (b) investigation, vote, and approval of a quorum of the governing body.

3213 (4) [~~A club~~] An equity or fraternal licensee shall:

3214 (a) record an admission of a member in the official minutes of a regular meeting of the
3215 governing body; and

3216 (b) whether approved or disapproved, file an application as a part of the official records
3217 of the [~~club~~] equity or fraternal licensee.

3218 (5) The spouse of a member of [~~a club~~] an equity or fraternal licensee has the rights and
3219 privileges of the member:

- 3220 (a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal
3221 licensee; and
- 3222 (b) except to the extent restricted by this title.
- 3223 (6) A minor child of a member of [~~a club~~] an equity or fraternal licensee has the rights
3224 and privileges of the member:
- 3225 (a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal
3226 licensee; and
- 3227 (b) except to the extent restricted by this title.
- 3228 (7) [~~A club~~] An equity or fraternal licensee shall maintain:
- 3229 (a) a current and complete membership record showing:
- 3230 (i) the date of application of a proposed member;
- 3231 (ii) a member's address;
- 3232 (iii) the date the governing body approved a member's admission;
- 3233 (iv) the date initiation fees and dues are assessed and paid; and
- 3234 (v) the serial number of the membership card issued to a member;
- 3235 (b) a membership list; and
- 3236 (c) a current record indicating when a member is removed as a member or resigns.
- 3237 (8) (a) [~~A club~~] An equity or fraternal licensee shall have bylaws or house rules that
3238 include provisions respecting the following:
- 3239 (i) standards of eligibility for members;
- 3240 (ii) limitation of members, consistent with the nature and purpose of the [~~club~~] equity
3241 or fraternal licensee;
- 3242 (iii) the period for which dues are paid, and the date upon which the period expires;
- 3243 (iv) provisions for removing a member from the [~~club~~] equity or fraternal licensee's
3244 membership for the nonpayment of dues or other cause;
- 3245 (v) provisions for guests; and
- 3246 (vi) application fees and membership dues.
- 3247 (b) [~~A club~~] An equity or fraternal licensee shall maintain a current copy of the [~~club~~]
3248 equity or fraternal licensee's current bylaws and current house rules.
- 3249 (c) [~~A club~~] An equity or fraternal licensee shall maintain its bylaws or house rules,
3250 and any amendments to those records, on file with the department at all times.

3251 (9) [~~A club~~] An equity or fraternal licensee may, in its discretion, allow an individual
3252 to be admitted to or use the [~~club~~] licensed premises as a guest subject to the following
3253 conditions:

3254 (a) the individual is allowed to use the [~~club~~] equity or fraternal licensee premises only
3255 to the extent permitted by the [~~club~~] equity or fraternal licensee's bylaws or house rules;

3256 (b) the individual shall be previously authorized by a member of the [~~club~~] equity or
3257 fraternal licensee who agrees to host the individual as a guest [~~into the club~~];

3258 (c) the individual has only those privileges derived from the individual's host for the
3259 duration of the individual's visit to the [~~club~~] equity or fraternal licensee premises; and

3260 (d) [~~a club~~] an equity or fraternal licensee or staff of the [~~club~~] equity or fraternal
3261 licensee may not enter into an agreement or arrangement with a [~~club~~] member of the equity or
3262 fraternal licensee to indiscriminately host a member of the general public into the [~~club~~] equity
3263 or fraternal licensee premises as a guest.

3264 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in [~~a~~
3265 ~~club~~] an equity or fraternal licensed premises without a host if:

3266 (a) (i) the [~~club~~] equity or fraternal licensee is an equity [~~club~~] licensee; and

3267 (ii) the individual is a member of an equity [~~club~~] licensee that has reciprocal guest
3268 privileges with the equity [~~club~~] licensee for which the individual is a guest;

3269 (b) (i) the [~~club~~] equity or fraternal licensee is a fraternal [~~club~~] licensee; and

3270 (ii) the individual is a member of the same fraternal organization as the fraternal [~~club~~]
3271 licensee for which the individual is a guest; or

3272 (c) (i) the [~~club~~] equity or fraternal licensee is a fraternal [~~club~~] licensee that holds the
3273 fraternal [~~club~~] license on July 1, 2013;

3274 (ii) the [~~club~~] equity or fraternal licensee's bylaws permit guests in the [~~club~~] equity or
3275 fraternal licensed premises without a host except that a minor may not be admitted as a guest
3276 without a host; and

3277 (iii) the [~~club~~] equity or fraternal licensee maintains 60% of its total [~~club~~] business
3278 from the sale of food, not including mix for alcoholic products, or service charges.

3279 (11) Unless the patron is a member or guest, [~~a club~~] an equity or fraternal licensee
3280 may not:

3281 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

3282 (b) allow the patron to be admitted to or use the licensed premises.

3283 (12) A minor may not be a member, officer, director, or trustee of [~~a club~~] an equity or
3284 fraternal licensee.

3285 Section 50. Section **32B-6-408** is amended to read:

3286 **32B-6-408. Information obtained by investigator.**

3287 (1) Subject to Subsection (2), if an investigator is permitted by another provision of
3288 this title to inspect a record of a [~~club~~] bar establishment licensee, in addition to any other
3289 rights under this title, the investigator may inspect, have a copy of, or otherwise review any
3290 record of the [~~club~~] bar establishment licensee that is a visual recording of the operations of the
3291 [~~club~~] bar establishment licensee.

3292 (2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise
3293 review a visual recording described in Subsection (1) without probable cause.

3294 Section 51. Section **32B-6-703** is amended to read:

3295 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

3296 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
3297 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
3298 beer retailer license from the commission in accordance with this part.

3299 (2) (a) The commission may issue an on-premise beer retailer license to establish
3300 on-premise beer retailer licensed premises at places and in numbers as the commission
3301 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
3302 premises operated as an on-premise beer retailer.

3303 (b) At the time that the commission issues an on-premise beer retailer license, the
3304 commission shall designate whether the on-premise beer retailer is a tavern.

3305 (c) The commission may change its designation of whether an on-premise beer retailer
3306 is a tavern in accordance with rules made by the commission.

3307 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
3308 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
3309 beer for consumption on the establishment's premises.

3310 (ii) In making a determination under this Subsection (2)(d), the commission shall
3311 consider:

3312 (A) whether the on-premise beer retailer will operate as one of the following:

- 3313 (I) a beer bar;
- 3314 (II) a parlor;
- 3315 (III) a lounge;
- 3316 (IV) a cabaret; or
- 3317 (V) a nightclub;
- 3318 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 3319 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 3320 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 3321 will exceed the revenue of the sale of food;
- 3322 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 3323 (D) the square footage and seating capacity of the premises;
- 3324 (E) what portion of the square footage and seating capacity will be used for a dining
- 3325 area in comparison to the portion that will be used as a lounge or bar area;
- 3326 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 3327 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 3328 the culinary facilities of the hotel or resort facility;
- 3329 (G) whether the entertainment provided on the premises of the beer retailer will be
- 3330 suitable for minors; and
- 3331 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 3332 retailer license including:
- 3333 (I) management experience;
- 3334 (II) past beer retailer management experience; and
- 3335 (III) the type of management scheme that will be used by the beer retailer.
- 3336 (e) On or after March 1, 2012:
- 3337 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
- 3338 (A) maintain at least 70% of the person's total gross revenues from business directly
- 3339 related to a recreational amenity on or directly adjoining the licensed premises of the beer
- 3340 retailer, except that a person may include gross revenue from business directly related to a
- 3341 recreational amenity that is owned or operated by a political subdivision if the person has a
- 3342 contract meeting the requirements of Subsection (2)(e)(v) with the political subdivision; or
- 3343 (B) have a recreational amenity on or directly adjoining the licensed premises of the

3344 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
3345 food.

3346 (ii) The commission may not license a person as an on-premise beer retailer if the
3347 person does not:

3348 (A) meet the requirements of Subsection (2)(e)(i); or

3349 (B) operate as a tavern.

3350 ~~[(iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July~~
3351 ~~1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,~~
3352 ~~2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an~~
3353 ~~on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).]~~

3354 ~~[(B) If an on-premise beer retailer fails to notify the department as required by~~
3355 ~~Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,~~
3356 ~~and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer~~
3357 ~~retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an~~
3358 ~~on-premise beer retailer license that is not a tavern and does not meet the requirements of~~
3359 ~~Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).]~~

3360 ~~[(iv)]~~ (iii) A person who, after August 1, 2011, applies for an on-premise beer retailer
3361 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
3362 have or construct facilities for the dispensing or storage of an alcoholic product that do not
3363 meet the requirements of Subsection 32B-6-905(12)(a)(ii).

3364 ~~[(v)]~~ (iv) A contract described in Subsection (2)(e)(i)(A) shall:

3365 (A) allow the beer retailer to include the total gross revenue from operations of the
3366 recreational amenity in the beer retailer's total gross receipts for purposes of Subsection
3367 (2)(e)(i)(A); and

3368 (B) give the department the authority to audit financial information of the political
3369 subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A)
3370 are met.

3371 (3) Subject to Section 32B-1-201:

3372 (a) The commission may not issue a total number of on-premise beer retailer licenses
3373 that at any time exceeds the number determined by dividing the population of
3374 the state by 73,666.

3375 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
3376 in accordance with Section 32B-5-206.

3377 (4) (a) Unless otherwise provided in Subsection (4)(b):

3378 (i) only one on-premise beer retailer license is required for each building or resort
3379 facility owned or leased by the same person; and

3380 (ii) a separate license is not required for each retail beer dispensing location in the
3381 same building or on the same resort premises owned or operated by the same person.

3382 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
3383 building or resort facility operates in the same manner.

3384 (ii) If each retail beer dispensing location does not operate in the same manner:

3385 (A) one on-premise beer retailer license designated as a tavern is required for the
3386 locations in the same building or on the same resort premises that operate as a tavern; and

3387 (B) one on-premise beer retailer license is required for the locations in the same
3388 building or on the same resort premises that do not operate as a tavern.

3389 Section 52. Section 32B-6-706 is amended to read:

3390 **32B-6-706. Specific operational requirements for on-premise beer retailer license.**

3391 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3392 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply
3393 with this section.

3394 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3395 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3396 (i) an on-premise beer retailer;

3397 (ii) individual staff of an on-premise beer retailer; or

3398 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

3399 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make
3400 and maintain the records the department requires.

3401 (b) Section 32B-1-205 applies to a record required to be made or maintained in
3402 accordance with this Subsection (2).

3403 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or
3404 sell liquor on its licensed premises.

3405 (4) Beer sold in a sealed container by an on-premise beer retailer may be removed from

3406 the on-premise beer retailer premises in the sealed container.

3407 (5) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
3408 licensed premises during a period that:

3409 (i) begins at 1 a.m.; and

3410 (ii) ends at 9:59 a.m.

3411 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after
3412 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may
3413 finish consuming a single serving of beer not exceeding 26 ounces.

3414 (ii) A tavern is not required to remain open:

3415 (A) after all patrons have vacated the premises; or

3416 (B) during an emergency.

3417 (6) Notwithstanding Section [32B-5-308](#), a minor may not be on the premises of a
3418 tavern.

3419 (7) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
3420 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
3421 from:

3422 (A) a beer wholesaler licensee; or

3423 (B) a small brewer that manufactures the beer.

3424 (ii) Violation of Subsection (7)(a)(i) is a class A misdemeanor.

3425 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (7) from a
3426 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
3427 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3428 in which the ~~[off-premise]~~ on-premise beer retailer is located, unless an alternate wholesaler is
3429 authorized by the department to sell to the ~~[off-premise]~~ on-premise beer retailer as provided in
3430 Section [32B-13-301](#).

3431 (ii) Violation of Subsection (7)(b)(i) is a class B misdemeanor.

3432 (8) A tavern shall comply with Section [32B-1-407](#).

3433 Section 53. Section [32B-6-902](#) is amended to read:

3434 **[32B-6-902. Definitions.](#)**

3435 (1) As used in this part:

3436 (a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant

3437 licensee that is primarily used for the service and consumption of food by one or more patrons.

3438 (ii) "Dining area" does not include a dispensing area.

3439 (b) "Dispensing area" means an area in the licensed premises of a beer-only restaurant
3440 licensee where a dispensing structure is located and that:

3441 (i) is physically separated from the dining area and any waiting area by a structure or
3442 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
3443 dispensing of beer; or

3444 (ii) measures at least 10 feet from any area where beer is dispensed to the dining area
3445 and any waiting area, measured from the point of the area where beer is dispensed that is
3446 closest to the dining area or waiting area.

3447 ~~[(1) (a) As used in this part, "grandfathered]~~

3448 (c) "Grandfathered bar structure" means a bar structure in a licensed premises of a
3449 beer-only restaurant licensee that:

3450 (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
3451 1, 2011:

3452 (A) is operational;

3453 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
3454 the requirements of Subsection 32B-6-905(12)(a)(ii); and

3455 (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that
3456 effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a
3457 beer-only restaurant; or

3458 (ii) is a bar structure grandfathered under Section 32B-6-409.

3459 ~~[(b)]~~ (d) "Grandfathered bar structure" does not include a grandfathered bar structure
3460 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
3461 grandfathered bar structure, as defined by rule made by the commission.

3462 (e) "Waiting area" includes a lobby.

3463 (2) Subject to Subsection (1)~~[(b)]~~(d), a grandfathered bar structure remains a
3464 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
3465 ownership.

3466 Section 54. Section 32B-6-905 is amended to read:

3467 **32B-6-905. Specific operational requirements for a beer-only restaurant license --**

3468 **Before July 1, 2018.**

3469 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3470 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3471 shall comply with this section.

3472 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3473 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3474 (i) a beer-only restaurant licensee;

3475 (ii) individual staff of a beer-only restaurant licensee; or

3476 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3477 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3478 sale, furnish, or allow consumption of liquor.

3479 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3480 (i) as a flavoring on a dessert; and

3481 (ii) in the preparation of a flaming food dish, drink, or dessert.

3482 (3) In addition to complying with Section [32B-5-303](#), a beer-only restaurant licensee
3483 shall store beer in a storage area described in Subsection (12)(a).

3484 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3485 make a written beverage tab for each table or group that orders or consumes an alcoholic
3486 product on the premises.

3487 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
3488 beer ordered or consumed.

3489 (5) A person's willingness to serve beer may not be made a condition of employment as
3490 a server with a beer-only restaurant licensee.

3491 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
3492 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
3493 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
3494 11:30 a.m. on any day.

3495 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
3496 business from the sale of food, which does not include a service charge.

3497 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after
3498 the beer-only restaurant licensee confirms that the patron has the intent to order food prepared,

3499 sold, and furnished at the licensed premises.

3500 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
3501 facilities for food preparation and dining accommodations.

3502 (9) A patron may not have more than two beers at a time before the patron.

3503 (10) A patron may consume a beer only: (a) at:

3504 (i) the patron's table;

3505 (ii) a grandfathered bar structure; or

3506 (iii) a counter; and

3507 (b) where food is served.

3508 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
3509 a patron, and a patron may not consume an alcoholic product at a bar structure.

3510 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
3511 is 21 years of age or older may:

3512 (i) sit;

3513 (ii) be furnished a beer; and

3514 (iii) consume a beer.

3515 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
3516 beer-only restaurant licensee may not permit a minor to, and a minor may not:

3517 (i) sit; or

3518 (ii) consume food or beverages.

3519 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
3520 beer-only restaurant licensee:

3521 (A) as provided in Subsection [32B-5-308\(2\)](#); or

3522 (B) to perform maintenance and cleaning services during an hour when the beer-only
3523 restaurant licensee is not open for business.

3524 (ii) A minor may momentarily pass by a grandfathered bar structure without
3525 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
3526 premises in which the minor is permitted to be.

3527 (12) A beer-only restaurant licensee may dispense a beer only if:

3528 (a) the beer is dispensed from an area that is:

3529 (i) a grandfathered bar structure; or

3530 (ii) separated from an area for the consumption of food by a patron by a solid,
3531 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3532 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
3533 from an area used for dining, for staging, or as a lobby or waiting area;

3534 (b) the beer-only restaurant licensee uses a beer that is:

3535 (i) stored in an area described in Subsection (12)(a); or

3536 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

3537 (A) immediately before the beer is dispensed it is in an unopened container;

3538 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
3539 is opened; and

3540 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

3541 (c) any instrument or equipment used to dispense the beer is located in an area
3542 described in Subsection (12)(a).

3543 (13) Subject to Subsection 32B-6-905.1(17) and Section 32B-6-905.2, the provisions
3544 of this section apply before July 1, 2018.

3545 Section 55. Section **32B-6-905.1** is enacted to read:

3546 **32B-6-905.1. Specific operational requirements for a beer-only restaurant license**
3547 **-- On and after July 1, 2018.**

3548 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3549 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3550 shall comply with this section.

3551 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
3552 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3553 (i) a beer-only restaurant licensee;

3554 (ii) individual staff of a beer-only restaurant licensee; or

3555 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3556 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3557 sale, furnish, or allow consumption of liquor.

3558 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3559 (i) as a flavoring on a dessert; and

3560 (ii) in the preparation of a flaming food dish, drink, or dessert.

3561 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
3562 shall store beer in a storage area described in Subsection (13)(a).

3563 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3564 make a beverage tab for each table or group that orders or consumes an alcoholic product on
3565 the premises.

3566 (b) A beverage tab described in this Subsection (4) shall state:

3567 (i) the type and amount of each alcoholic product ordered or consumed; and

3568 (ii) the time that each alcoholic product is dispensed.

3569 (5) A person's willingness to serve beer may not be made a condition of employment as
3570 a server with a beer-only restaurant licensee.

3571 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the
3572 licensed premises during the following time periods only:

3573 (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

3574 (b) on a weekend or a state or federal legal holiday, during the period that begins at
3575 10:30 a.m. and ends at 12:59 a.m.

3576 (7) A beer-only restaurant licensee shall maintain at least 70% of the beer-only
3577 restaurant licensee's total restaurant business from the sale of food, which does not include a
3578 service charge.

3579 (8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer
3580 except after:

3581 (i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or
3582 furnishes the beer is seated at:

3583 (A) a table that is located in a dining area or a dispensing area;

3584 (B) a counter that is located in a dining area or a dispensing area; or

3585 (C) a dispensing structure located in a dispensing area; and

3586 (ii) the beer-only restaurant licensee confirms that the patron has the intent to:

3587 (A) order food prepared, sold, and furnished at the licensed premises; and

3588 (B) consume the food at the same location where the patron is seated and sold, offered
3589 for sale, or furnished the beer.

3590 (b) A beer-only restaurant licensee shall maintain on the licensed premises adequate
3591 culinary facilities for food preparation and dining accommodations.

- 3592 (9) A patron may consume a beer only at:
3593 (a) a table that is located in a dining area or a dispensing area;
3594 (b) a counter that is located in a dining area or a dispensing area; or
3595 (c) a dispensing structure located in a dispensing area.
3596 (10) A patron may not have more than two beers at a time before the patron.
3597 (11) In accordance with the provisions of this section, an individual who is at least 21
3598 years of age may consume food and beverages in a dispensing area.
3599 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
3600 consume food or beverages in a dispensing area.
3601 (b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only
3602 restaurant licensee:
3603 (A) in accordance with Subsection [32B-5-308\(2\)](#); or
3604 (B) to perform maintenance and cleaning services when the beer-only restaurant
3605 licensee is not open for business.
3606 (ii) If there is no alternative route available, a minor may momentarily pass through a
3607 dispensing area without remaining or sitting in the dispensing area en route to an area of the
3608 beer-only restaurant licensee's premises in which the minor is permitted to be.
3609 (13) A beer-only restaurant licensee may dispense a beer only if:
3610 (a) the beer is dispensed from:
3611 (i) a dispensing structure that is located in a dispensing area; or
3612 (ii) an area that is:
3613 (A) separated from an area for the consumption of food by a patron by a solid,
3614 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3615 an alcoholic product are not readily visible to a patron, not accessible by a patron; and
3616 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;
3617 (b) the beer-only restaurant licensee uses a beer that is stored in an area described in
3618 Subsection (13)(a) or in accordance with Section [32B-5-303](#); and
3619 (c) any instrument or equipment used to dispense the beer is located in an area
3620 described in Subsection (13)(a).
3621 (14) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or
3622 from a movable cart.

3623 (15) (a) In addition to the requirements described in Section 32B-5-302, a beer-only
3624 restaurant licensee shall maintain each of the following records for at least three years:

3625 (i) a record required by Section 32B-5-302; and

3626 (ii) a record that the commission requires a beer-only restaurant licensee to use or
3627 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3628 Rulemaking Act.

3629 (b) The department shall audit the records of a beer-only restaurant licensee at least
3630 once each calendar year.

3631 (16) A beer-only restaurant licensee shall display in a conspicuous place at the entrance
3632 to the licensed premises a sign approved by the commission that:

3633 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3634 (b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

3635 (17) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

3636 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

3637 and

3638 (ii) shall comply with the provisions of this section on and after July 1, 2018.

3639 (b) A beer-only restaurant licensee that elects to comply with the provisions of this
3640 section before July 1, 2018:

3641 (i) shall comply with each provision of this section; and

3642 (ii) is not required to comply with the provisions of Section 32B-6-905.

3643 Section 56. Section 32B-6-905.2 is enacted to read:

3644 **32B-6-905.2. Transition process for beer-only restaurant licensees.**

3645 (1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only
3646 restaurant licensee shall comply with the provisions of Section 32B-6-905.1.

3647 (2) (a) Before a person who holds a beer-only restaurant license on July 1, 2017,
3648 changes the beer-only restaurant licensee's approved location for storage, dispensing, or
3649 consumption to comply with the provisions of Section 32B-6-905.1, the beer-only restaurant
3650 licensee shall obtain approval from the department in accordance with Subsection
3651 32B-5-303(3).

3652 (b) (i) A beer-only restaurant licensee described in Subsection (2)(a) may submit an
3653 application for approval on or after May 9, 2017.

3654 (ii) A beer-only restaurant licensee described in Subsection (2)(a) that cannot comply
3655 with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant
3656 licensee's approved location for storage, dispensing, or consumption shall, in accordance with
3657 Subsection 32B-5-303(3), submit to the department an application to change the beer-only
3658 restaurant licensee's location for storage, dispensing, or consumption no later than May 1,
3659 2018.

3660 (c) If a beer-only restaurant licensee submits an application under this section to the
3661 department on May 9, 2017, the department shall take action on the application on or before
3662 July 1, 2017.

3663 Section 57. Section **32B-7-202** is amended to read:

3664 **32B-7-202. General operational requirements for off-premise beer retailer.**

3665 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
3666 with ~~[this section]~~ the provisions of this title and rules made by the commission.

3667 (b) Failure to comply with this section may result in a suspension or revocation of a
3668 local license and disciplinary action in accordance with Section 32B-7-501.

3669 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
3670 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
3671 from:

3672 (A) a beer wholesaler licensee; or

3673 (B) a small brewer that manufactures the beer.

3674 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

3675 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
3676 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
3677 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3678 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
3679 the department to sell to the off-premise beer retailer as provided in Section **32B-13-301**.

3680 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

3681 (c) (i) An off-premise beer retailer shall make and maintain a record, as required by
3682 commission rule, of all beer purchased.

3683 (ii) Section 32B-1-205 applies to a record required to be made or maintained in
3684 accordance with this Subsection (2)(c).

3685 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
3686 container larger than two liters.

3687 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer
3688 unless:

3689 (a) the sale is done under the supervision of a person 21 years of age or older who is on
3690 the licensed premises; and

3691 (b) the minor is at least 16 years of age.

3692 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer
3693 retailer shall:

3694 (i) display all beer sold by the off-premise beer retailer in ~~[an area that is visibly~~
3695 ~~separate and distinct from the area where nonalcoholic beverages are displayed]~~ one or two
3696 contiguous locations, each of which is a display cabinet, cooler, aisle, or room where beer is the
3697 only beverage displayed; and

3698 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

3699 (A) is prominent;

3700 (B) is easily readable by a consumer;

3701 (C) meets the requirements for format established by the commission by rule; and

3702 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
3703 alcohol. Please read the label carefully."

3704 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer
3705 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

3706 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
3707 labeled, packaged, or advertised as:

3708 (i) a malt cooler; or

3709 (ii) a beverage that may provide energy.

3710 ~~[(d) The commission shall define by rule what constitutes an "area that is visibly~~
3711 ~~separate and distinct from the area where a nonalcoholic beverage is displayed."]~~

3712 ~~[(e) A violation of this Subsection (5) is an infraction.]~~

3713 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
3714 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
3715 shall wear a unique identification badge:

3716 (i) on the front of the staff's clothing;
 3717 (ii) visible above the waist;
 3718 (iii) bearing the staff's:
 3719 (A) first or last name;
 3720 (B) initials; or
 3721 (C) unique identification in letters or numbers; and
 3722 (iv) with the number or letters on the unique identification badge being sufficiently
 3723 large to be clearly visible and identifiable while engaging in or directly supervising the retail
 3724 sale of beer.

3725 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
 3726 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

3727 (i) full name;
 3728 (ii) address; and
 3729 (iii) (A) driver license number; or
 3730 (B) similar identification number.

3731 (c) An off-premise beer retailer shall make available a record required to be made or
 3732 maintained under this Subsection (6) for immediate inspection by:

3733 (i) a peace officer; ~~or~~
 3734 (ii) a representative of the local authority that issues the off-premise beer retailer
 3735 license~~[-]; or~~

3736 (iii) a representative of the commission or department.

3737 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
 3738 retailer that does not comply or require its staff to comply with this Subsection (6).

3739 Section 58. Section **32B-7-401** is enacted to read:

Part 4. Off-Premise Beer Retailer State License

3741 **32B-7-401. Commission's power to issue off-premise beer retailer state license.**

3742 (1) Except as provided in Subsection (3), before a person may purchase, store, sell, or
 3743 offer for sale beer for consumption off the person's premises, the person shall obtain an
 3744 off-premise beer retailer state license in accordance with this part.

3745 (2) The commission may issue an off-premise beer retailer state license for the retail
 3746 sale of beer for consumption off the beer retailer's premises.

3747 (3) (a) A person who operates as an off-premise beer retailer on May 9, 2017, shall
3748 obtain an off-premise beer retailer state license on or before February 28, 2018.

3749 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3750 the commission shall establish a deadline for each off-premise beer retailer described in
3751 Subsection (3)(a) to submit to the department an application for an off-premise beer retailer
3752 state license.

3753 (ii) The commission shall act upon each timely application submitted in accordance
3754 with this Subsection (3) on or before February 28, 2018.

3755 (c) An off-premise beer retailer described in Subsection (3)(a) may continue to operate
3756 without an off-premise beer retailer state license through February 28, 2018.

3757 Section 59. Section **32B-7-402** is enacted to read:

3758 **32B-7-402. Application for off-premise beer retailer state license -- Qualifications.**

3759 To obtain an off-premise beer retailer state license, a person shall submit to the
3760 department:

3761 (1) a written application in a form prescribed by the department;

3762 (2) a nonrefundable application fee of \$75;

3763 (3) an initial license fee of \$250 that is refundable if the commission does not issue the
3764 off-premise beer retailer state license;

3765 (4) written consent of the local authority;

3766 (5) a copy of the person's current business license;

3767 (6) a floor plan of the premises that outlines the location of each beer display;

3768 (7) a signed consent form stating the person will permit any authorized representative
3769 of the commission or the department or any law enforcement officer to have unrestricted right
3770 to enter the licensed premises;

3771 (8) if the person is an entity, property verification evidencing that the individual who
3772 signs the application is authorized to sign on behalf of the entity; and

3773 (9) any other information that the commission or department requires.

3774 Section 60. Section **32B-7-403** is enacted to read:

3775 **32B-7-403. Renewal of off-premise beer retailer state license.**

3776 (1) An off-premise beer retailer state license expires on the last day of February each
3777 year.

3778 (2) To renew an off-premise beer retailer state license, an off-premise beer retailer state
3779 licensee shall, no later than January 31, submit:

3780 (a) a completed renewal application to the department in a form prescribed by the
3781 department; and

3782 (b) a renewal fee of \$175.

3783 (3) An off-premise beer retailer state licensee automatically forfeits the off-premise
3784 beer retailer state license if the off-premise beer retailer state licensee fails to satisfy the
3785 renewal requirements described in this section.

3786 Section 61. Section **32B-7-404** is enacted to read:

3787 **32B-7-404. Duties of commission and department before issuing off-premise beer**
3788 **retailer state license.**

3789 (1) (a) Before the commission issues an off-premise beer retailer state license, the
3790 department shall conduct an investigation and may hold one or more public hearings to gather
3791 information and make recommendations to the commission regarding whether the commission
3792 should issue an off-premise beer retailer state license.

3793 (b) The department shall forward the information the department gathers and the
3794 department's recommendations to the commission.

3795 (2) Before the commission issues an off-premise beer retailer state license, the
3796 commission shall:

3797 (a) determine that the person filed a complete application and is in compliance with the
3798 provisions of this chapter;

3799 (b) determine that the person is not disqualified under Section [32B-1-304](#);

3800 (c) consider the physical characteristics of the premises where the beer is displayed;
3801 and

3802 (d) consider any other factor that the commission considers necessary.

3803 Section 62. Section **32B-7-405** is enacted to read:

3804 **32B-7-405. Notifying department of change of ownership.**

3805 The commission may suspend or revoke an off-premise beer retailer state license if an
3806 off-premise beer retailer state licensee does not immediately notify the department of a change
3807 in:

3808 (1) ownership of the licensee's business;

3809 (2) for a corporate owner, a shareholder holding at least 20% of the total issued and
 3810 outstanding stock of the corporation; or

3811 (3) for a limited liability company, a member owning at least 20% of the limited
 3812 liability company.

3813 Section 63. Section **32B-7-501**, which is renumbered from Section 32B-7-305 is
 3814 renumbered and amended to read:

3815 **Part 5. Off-Premise Beer Retailer Enforcement**

3816 ~~[32B-7-305].~~ **32B-7-501. Tracking of enforcement actions -- Costs of**
 3817 **enforcement actions.**

3818 (1) ~~[A local authority that pursuant to this part adjudicates an administrative penalty for~~
 3819 ~~a violation of a law]~~ For each violation committed by an off-premise beer retailer involving the
 3820 sale of an alcoholic product to a minor, the commission shall:

3821 (a) maintain a record of ~~[an adjudicated]~~ the violation until the record is expunged
 3822 under Subsection (3);

3823 (b) include in the record described in Subsection (1)(a):

3824 (i) the name of the individual who ~~[commits]~~ committed the violation;

3825 (ii) the name of the off-premise beer retailer for whom the individual ~~[is]~~ was a staff
 3826 member at the time of the violation; and

3827 (iii) the date of the adjudication of the violation; and

3828 (c) provide the information described in Subsection (1)(b) to the Highway Safety
 3829 Office of the Department of Public Safety within 30 days of the date on which a violation is
 3830 adjudicated.

3831 (2) (a) The ~~[Highway Safety Office]~~ Department of Public Safety shall develop and
 3832 operate a system to collect, analyze, maintain, track, and disseminate the ~~[violation history]~~
 3833 information ~~[received under]~~ that the Department of Public Safety receives in accordance with
 3834 Subsection (1).

3835 (b) The ~~[Highway Safety Office]~~ Department of Public Safety shall make the system
 3836 described in Subsection (2)(a) available to:

3837 ~~[(i) assist a local authority in assessing administrative penalties under Section~~
 3838 ~~32B-7-303; and]~~

3839 (i) assist the commission in assessing penalties under this title; and

3840 (ii) inform an off-premise beer retailer of an individual who has ~~[an administrative]~~ a
3841 violation history ~~[under Section 32B-7-303]~~ in the system.

3842 ~~[(c) The Highway Safety Office shall maintain a record of violation history information~~
3843 ~~received pursuant to Subsection (1) until the record is expunged under Subsection (3).]~~

3844 (3) ~~[(a) A local authority]~~ The commission and the [Highway Safety Office]
3845 Department of Public Safety shall expunge [from the records maintained an administrative
3846 penalty imposed under Section 32B-7-303 for purposes of determining future administrative
3847 penalties under Section 32B-7-303] each record in the system described in Subsection (2) that
3848 relates to an individual if the individual ~~[has not been found in violation of any law]~~ does not
3849 violate a provision of this title involving the sale of an alcoholic product to a minor for a period
3850 of 36 consecutive months from the day on which the individual ~~[is last adjudicated as violating~~
3851 ~~a law]~~ was last found to have violated a provision of this title involving the sale of an alcoholic
3852 product to a minor.

3853 ~~[(b) A local authority shall expunge from the records maintained by the local authority~~
3854 ~~an administrative penalty imposed under Section 32B-7-303 against an off-premise beer~~
3855 ~~retailer for purposes of determining future administrative penalties under Section 32B-7-303 if~~
3856 ~~the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in~~
3857 ~~violation of any law involving the sale of an alcoholic product to a minor for a period of 36~~
3858 ~~consecutive months from the day on which the off-premise beer retailer or staff of the~~
3859 ~~off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic~~
3860 ~~product to a minor.]~~

3861 (4) ~~The [Highway Safety Office]~~ Department of Public Safety shall administer a
3862 program to reimburse a municipal or county law enforcement agency:

3863 (a) for the actual costs of an alcohol-related compliance check investigation conducted
3864 ~~[pursuant to]~~ in accordance with Section 77-39-101 on the premises of an off-premise beer
3865 retailer;

3866 (b) for administrative costs associated with reporting the compliance check
3867 investigation described in Subsection (4)(a);

3868 (c) if the municipal or county law enforcement agency completes and submits to the
3869 ~~[Highway Safety Office]~~ Department of Public Safety a report within 90 days of the
3870 compliance check investigation described in Subsection (4)(a) in a format required by the

3871 [~~Highway Safety Office~~] Department of Public Safety; and

3872 (d) in the order that the municipal or county law enforcement agency submits the report
3873 required by Subsection (4)(c) until the amount allocated by the [~~Highway Safety Office~~]
3874 Department of Public Safety to reimburse a municipal or county law enforcement agency is
3875 spent.

3876 (5) The [~~Highway Safety Office~~] Department of Public Safety shall report to the Utah
3877 Substance Abuse Advisory Council by no later than October 1 following a fiscal year on the
3878 following funded during the prior fiscal year:

3879 (a) compliance check investigations reimbursed under Subsection (4); and

3880 (b) the collection, analysis, maintenance, tracking, and dissemination of violation
3881 history information described in Subsection (2).

3882 Section 64. Section **32B-8-102** is amended to read:

3883 **32B-8-102. Definitions.**

3884 As used in this chapter:

3885 (1) "Boundary of a resort building" means the physical boundary of the land reasonably
3886 related to a resort building and any structure or improvement to that land as determined by the
3887 commission.

3888 (2) "Dwelling" means a portion of a resort building:

3889 (a) owned by one or more individuals;

3890 (b) that is used or designated for use as a residence by one or more persons; and

3891 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
3892 consecutive days by a person who uses it for a residence.

3893 (3) "Engaged in the management of the resort" may be defined by the commission by
3894 rule.

3895 (4) "Invitee" means an individual who in accordance with Subsection [32B-8-304\(11\)](#) is
3896 authorized to use a resort spa by a host who is:

3897 (a) a resident; or

3898 (b) a public customer.

3899 (5) "Provisions applicable to a sublicense" means:

3900 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
3901 License;

- 3902 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service
3903 Restaurant License;
- 3904 (c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar
3905 Establishment License;
- 3906 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
3907 License;
- 3908 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
3909 Retailer License; and
- 3910 (f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.
- 3911 (6) "Public customer" means an individual who holds a customer card in accordance
3912 with Subsection [32B-8-304\(12\)](#).
- 3913 (7) "Resident" means an individual who:
- 3914 (a) owns a dwelling located within a resort building; or
- 3915 (b) rents lodging accommodations for 30 consecutive days or less from:
- 3916 (i) an owner of a dwelling described in Subsection (7)(a); or
- 3917 (ii) the resort licensee.
- 3918 (8) "Resort" means a location:
- 3919 (a) on which is located one resort building; and
- 3920 (b) that is affiliated with a ski area that physically touches the boundary of the resort
3921 building.
- 3922 (9) "Resort building" means a building:
- 3923 (a) that is primarily operated to provide dwellings or lodging accommodations;
- 3924 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;
- 3925 (c) that consists of at least 400,000 square feet:
- 3926 (i) including only the building itself; and
- 3927 (ii) not including areas such as above ground surface parking; and
- 3928 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
3929 dwellings owned by a person other than the resort licensee.
- 3930 (10) "Resort spa" means a spa, as defined by rule by the commission, that is within the
3931 boundary of a resort building.
- 3932 (11) "Sublicense" means:

- 3933 (a) a full-service restaurant sublicense;
- 3934 (b) a limited-service restaurant sublicense;
- 3935 (c) a [~~club~~] bar establishment sublicense;
- 3936 (d) an on-premise banquet sublicense;
- 3937 (e) an on-premise beer retailer sublicense; and
- 3938 (f) a resort spa sublicense.

3939 (12) "Sublicense premises" means a building, enclosure, or room used pursuant to a
3940 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
3941 product, unless otherwise defined in this title or in the rules made by the commission.

3942 Section 65. Section **32B-8-304** is amended to read:

3943 **32B-8-304. Specific operational requirements for resort spa sublicense.**

3944 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3945 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
3946 resort spa sublicense shall comply with this section.

3947 (b) Subject to Section [32B-8-502](#), failure to comply as provided in Subsection (1)(a)
3948 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
3949 Enforcement Act, against:

- 3950 (i) a retail licensee;
- 3951 (ii) staff of the retail licensee;
- 3952 (iii) a person otherwise related to a resort spa sublicense; or
- 3953 (iv) any combination of the persons listed in this Subsection (1)(b).

3954 (2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
3955 record required by this title is maintained, and a record is maintained or used for the resort spa
3956 sublicense:

- 3957 (i) as the department requires; and
- 3958 (ii) for a minimum period of three years.

3959 (b) A record is subject to inspection by an authorized representative of the commission
3960 and the department.

3961 (c) A resort licensee shall allow the department, through an auditor or examiner of the
3962 department, to audit the records for a resort spa sublicense at the times the department
3963 considers advisable.

3964 (d) The department shall audit the records for a resort spa sublicense at least once
3965 annually.

3966 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in
3967 accordance with this Subsection (2).

3968 (3) (a) A person operating under a resort spa sublicense may not sell, offer for sale, or
3969 furnish liquor at a resort spa during a period that:

3970 (i) begins at 1 a.m.; and

3971 (ii) ends at 9:59 a.m.

3972 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
3973 beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an
3974 on-premise beer retailer.

3975 (c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for
3976 one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
3977 which time a person at the resort spa may finish consuming:

3978 (A) a single drink containing spirituous liquor;

3979 (B) a single serving of wine not exceeding five ounces;

3980 (C) a single serving of heavy beer;

3981 (D) a single serving of beer not exceeding 26 ounces; or

3982 (E) a single serving of a flavored malt beverage.

3983 (ii) A resort spa is not required to remain open:

3984 (A) after all persons have vacated the resort spa sublicense premises; or

3985 (B) during an emergency.

3986 (4) A minor may not be admitted into, use, or be on:

3987 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
3988 age or older; or

3989 (b) a lounge or bar area of the resort spa sublicense premises.

3990 (5) A resort spa shall have food available at all times when an alcoholic product is sold,
3991 offered for sale, furnished, or consumed on the resort spa sublicense premises.

3992 (6) (a) Subject to the other provisions of this Subsection (6), a patron may not have
3993 more than two alcoholic products of any kind at a time before the patron.

3994 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa

3995 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for
3996 the other spirituous liquor drink.

3997 (c) An individual portion of wine is considered to be one alcoholic product under this
3998 Subsection (6).

3999 (7) (a) An alcoholic product may only be consumed at a table or counter.

4000 (b) An alcoholic product may not be served to or consumed by a patron at a [bar]
4001 dispensing structure.

4002 (8) (a) A person operating under a resort spa sublicense shall have available on the
4003 resort spa sublicense premises for a patron to review at the time that the patron requests it, a
4004 written alcoholic product price list or a menu containing the price of an alcoholic product sold
4005 or furnished by the resort spa including:

- 4006 (i) a set-up charge;
- 4007 (ii) a service charge; or
- 4008 (iii) a chilling fee.

4009 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
4010 may be stated in food or alcoholic product menus including:

- 4011 (i) a set-up charge;
- 4012 (ii) a service charge; or
- 4013 (iii) a chilling fee.

4014 (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's
4015 activities.

4016 (b) A resort licensee may not maintain premises in a manner that barricades or conceals
4017 the resort spa sublicense's operation.

4018 (10) Subject to the other provisions of this section, a person operating under a resort
4019 spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or use
4020 the resort spa sublicense premises other than:

- 4021 (a) a resident;
- 4022 (b) a public customer who holds a valid customer card issued under Subsection (12); or
- 4023 (c) an invitee.

4024 (11) A person operating under a resort spa sublicense may allow an individual to be
4025 admitted to or use the resort spa sublicense premises as an invitee subject to the following

4026 conditions:

4027 (a) the individual shall be previously authorized by one of the following who agrees to
4028 host the individual as an invitee into the resort spa:

4029 (i) a resident; or

4030 (ii) a public customer as described in Subsection (10);

4031 (b) the individual has only those privileges derived from the individual's host for the
4032 duration of the invitee's visit to the resort spa; and

4033 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter
4034 into an agreement or arrangement with a resident or public customer to indiscriminately host a
4035 member of the general public into the resort spa as an invitee.

4036 (12) A person operating under a resort spa sublicense may issue a customer card to
4037 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
4038 under the following conditions:

4039 (a) the resort spa may not issue a customer card for a time period that exceeds three
4040 weeks;

4041 (b) the resort spa shall assess a fee to a public customer for a customer card;

4042 (c) the resort spa may not issue a customer card to a minor; and

4043 (d) a public customer may not host more than seven invitees at one time.

4044 Section 66. Section **32B-8a-302** is amended to read:

4045 **32B-8a-302. Application -- Approval process.**

4046 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
4047 file a transfer application with the department that includes:

4048 (a) an application in the form provided by the department;

4049 (b) a statement as to whether the consideration, if any, to be paid to the transferor
4050 includes payment for transfer of the retail license;

4051 (c) a statement executed under penalty of perjury that the consideration as set forth in
4052 the escrow agreement required by Section [32B-8a-401](#) is deposited with the escrow holder; and

4053 (d) (i) an application fee of \$300; and

4054 (ii) a transfer fee determined in accordance with Section [32B-8a-303](#).

4055 (2) If the intended transfer of a retail license involves consideration, at least 10 days
4056 before the commission may approve the transfer, the department shall post a notice of the

4057 intended transfer on the Public Notice Website created in Section [63F-1-701](#) that states the
4058 following:

- 4059 (a) the name of the transferor;
4060 (b) the name and address of the business currently associated with the retail license;
4061 (c) instructions for filing a claim with the escrow holder; and
4062 (d) the projected date that the commission may consider the transfer application.

4063 (3) (a) (i) Before the commission may approve the transfer of a retail license, the
4064 department shall conduct an investigation and may hold public hearings to gather information
4065 and make recommendations to the commission as to whether the transfer of the retail license
4066 should be approved.

4067 (ii) The department shall forward the information and recommendations described in
4068 this Subsection (3)(a) to the commission to aid in the commission's determination.

4069 (b) Before approving a transfer, the commission shall:

4070 (i) determine that the transferee filed a complete application;

4071 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
4072 transferred at the premises to which the retail license would be transferred;

4073 (iii) determine that the transferee is not delinquent in the payment of an amount
4074 described in Subsection [32B-8a-201\(3\)](#);

4075 (iv) determine that the transferee is not disqualified under Section [32B-1-304](#);

4076 (v) consider the locality within which the proposed licensed premises is located,
4077 including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4078 (vi) consider the transferee's ability to manage and operate the retail license to be
4079 transferred, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4080 (vii) consider the nature or type of retail licensee operation of the transferee, including
4081 the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4082 (viii) if the transfer involves consideration, determine that the transferee and transferor
4083 have complied with Part 4, Protection of Creditors; and

4084 (ix) consider any other factor the commission considers necessary.

4085 (4) [~~(a)~~] Except as provided in Subsection [~~(4)(b)~~] [32B-1-202\(3\)](#), the commission may
4086 not approve the transfer of a retail license to premises that do not meet the proximity
4087 requirements of Section [32B-1-202](#).

4088 ~~[(b) If after a transfer of a retail license the transferee operates the same type of retail~~
4089 ~~license at the same location as did the transferor, the commission may waive or vary the~~
4090 ~~proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the~~
4091 ~~transfer under the same circumstances that the commission may waive or vary the proximity~~
4092 ~~requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a~~
4093 ~~retail license.]~~

4094 Section 67. Section **32B-8b-102** is amended to read:

4095 **32B-8b-102. Definitions.**

4096 As used in this chapter:

4097 (1) "Boundary of a hotel" means the physical boundary of the contiguous parcels of
4098 real estate owned by the same person on which is located one or more buildings and any
4099 structure or improvement to that real estate as determined by the commission.

4100 (2) "Hotel" means one or more buildings that:

4101 (a) constitute a hotel, as defined by the commission;

4102 (b) are owned by the same person or by a person who has a majority interest in and can
4103 direct or exercise control over the management or policy of the person who owns any other
4104 building under the hotel license within the boundary of the hotel;

4105 (c) primarily operate to provide lodging accommodations;

4106 (d) provide room service within the boundary of the hotel meeting the requirements of
4107 this title;

4108 (e) have on-premise banquet space and provide on-premise banquet service within the
4109 boundary of the hotel meeting the requirements of this title;

4110 (f) have a restaurant or ~~[club]~~ bar establishment within the boundary of the hotel
4111 meeting the requirements of this title; and

4112 (g) have at least 40 guest rooms.

4113 (3) "Provisions applicable to a sublicense" means:

4114 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
4115 License;

4116 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service
4117 Restaurant License;

4118 (c) for a ~~[club]~~ bar establishment sublicense, Chapter 6, Part 4, ~~[Club]~~ Bar

4119 Establishment License;

4120 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
4121 License;

4122 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
4123 Retailer License; and

4124 (f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant
4125 License.

4126 (4) "Sublicense" means:

4127 (a) a full-service restaurant sublicense;

4128 (b) a limited-service restaurant sublicense;

4129 (c) a [~~club~~] bar establishment sublicense;

4130 (d) an on-premise banquet sublicense;

4131 (e) an on-premise beer retailer sublicense; and

4132 (f) a beer-only restaurant sublicense.

4133 (5) "Sublicense premises" means a building, enclosure, or room used pursuant to a
4134 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
4135 product, unless otherwise defined in this title or in the rules made by the commission, except
4136 that sublicense premises may have only one sublicense within a room or an enclosure that is
4137 separate from a room.

4138 Section 68. Section **32B-8b-201** is amended to read:

4139 **32B-8b-201. Commission's power to issue a hotel license.**

4140 (1) Before a person as a hotel under a single license may store, sell, offer for sale,
4141 furnish, or allow the consumption of an alcoholic product on sublicense premises, the person
4142 shall first obtain a hotel license from the commission in accordance with this part.

4143 (2) (a) The commission may issue to a person a hotel license to allow the storage, sale,
4144 offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel
4145 designated in the hotel license if the person operates at least three sublicenses under the hotel
4146 license one of which is an on-premise banquet license and one of which is a sublicense for a
4147 restaurant or [~~club~~] bar establishment.

4148 (b) A hotel license shall:

4149 (i) consist of:

- 4150 (A) a general hotel license; and
4151 (B) three or more sublicenses meeting the requirements of Subsection (2)(a); and
4152 (ii) designate the boundary of the hotel and sublicenses.
4153 (c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to
4154 the extent otherwise permitted by this title.
4155 (d) The commission may not issue a sublicense that is separate from a hotel license.
4156 (3) (a) The commission may not issue a total number of hotel licenses that at any time
4157 totals more than 80.
4158 (b) Subject to Subsection (3)(c), when determining the total number of licenses the
4159 commission has issued for each type of retail license, the commission may not include a
4160 sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.
4161 (c) If a hotel license issued under this chapter includes a ~~club~~ bar establishment
4162 sublicense that before the issuance of the hotel license was a ~~club~~ bar establishment license,
4163 the commission shall include the ~~club~~ bar establishment sublicense as one of the ~~club~~ bar
4164 establishment licenses in determining if the total number of licenses issued under the
4165 provisions applicable to the ~~club~~ bar establishment license exceeds the number calculated by
4166 dividing the population of the state by the number specified in the provisions applicable to the
4167 ~~club~~ bar establishment license.
4168 (d) A person may not transfer a ~~club~~ bar establishment license under Chapter 8a,
4169 Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection
4170 (3)(c).
4171 Section 69. Section **53-10-305** is amended to read:
4172 **53-10-305. Duties of bureau chief.**
4173 The bureau chief, with the consent of the commissioner, shall do the following:
4174 (1) conduct in conjunction with the state boards of education and higher education in
4175 state schools, colleges, and universities, an educational program concerning alcoholic
4176 beverages and alcoholic products, and work in conjunction with civic organizations, churches,
4177 local units of government, and other organizations in the prevention of alcoholic beverage,
4178 alcoholic product, and drug violations;
4179 (2) coordinate law enforcement programs throughout the state and accumulate and
4180 disseminate information related to the prevention, detection, and control of violations of this

4181 chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption
4182 of an alcoholic beverage or alcoholic product on premises maintained by a ~~[club]~~ bar
4183 establishment licensee, or a person required to obtain a ~~[club]~~ bar establishment license, as
4184 defined in Section [32B-1-102](#);

4185 (3) make inspections and investigations as required by the commission and the
4186 Department of Alcoholic Beverage Control;

4187 (4) perform other acts as may be necessary or appropriate concerning control of the use
4188 of an alcoholic beverage or alcoholic product and drugs; and

4189 (5) make reports and recommendations to the Legislature, the governor, the
4190 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
4191 required or requested.

4192 Section 70. Section **53A-13-102** is amended to read:

4193 **53A-13-102. Instruction on the harmful effects of alcohol, tobacco, and controlled**
4194 **substances -- School-based underage drinking prevention program.**

4195 (1) The State Board of Education shall adopt rules providing for instruction at each
4196 grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the
4197 human body and society. The rules shall require but are not limited to instruction on the
4198 following:

4199 (a) teaching of skills needed to evaluate advertisements for, and media portrayal of,
4200 alcohol, tobacco, and controlled substances;

4201 (b) directing students towards healthy and productive alternatives to the use of alcohol,
4202 tobacco, and controlled substances; and

4203 (c) discouraging the use of alcohol, tobacco, and controlled substances.

4204 (2) At the request of the board, the Division of Substance Abuse and Mental Health
4205 shall cooperate with the board in developing programs to provide this instruction.

4206 (3) The board shall participate in efforts to enhance communication among community
4207 organizations and state agencies, and shall cooperate with those entities in efforts which are
4208 compatible with the purposes of ~~[this section]~~ Subsections (1) and (2).

4209 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4210 board shall make rules that require each LEA, as defined in Section [53A-1-401](#), to:

4211 (a) present the school-based underage drinking prevention program as defined in

4212 Section 32B-2-306 each year to students in grade 8;

4213 (b) present the grade 10 school-based underage drinking prevention program as defined
4214 in Section 32B-2-306 each year to students in grade 10;

4215 (c) ensure that each student in grade 8 or 10 participates in the school-based underage
4216 drinking prevention program or the grade 10 school-based underage drinking prevention
4217 program, unless the student's parent or guardian excused the student from participation; and

4218 (d) coordinate with the Department of Alcoholic Beverage Control to set a date each
4219 year for the Department of Alcoholic Beverage Control or the provider with whom the
4220 Department of Alcoholic Beverage Control contracts to provide the school-based underage
4221 drinking prevention program or the grade 10 school-based underage drinking prevention
4222 program.

4223 Section 71. Section **62A-15-401** is amended to read:

4224 **62A-15-401. Alcohol training and education seminar.**

4225 (1) As used in this part:

4226 (a) "Instructor" means a person that directly provides the instruction during an alcohol
4227 training and education seminar for a seminar provider.

4228 (b) "Licensee" means a person who is:

4229 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;
4230 and

4231 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
4232 of the licensee; or

4233 (ii) a business that is:

4234 (A) a new or renewing licensee licensed by a city, town, or county; and

4235 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

4236 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

4237 (d) "Seminar provider" means a person other than the division who provides an alcohol
4238 training and education seminar meeting the requirements of this section.

4239 (2) (a) This section applies to [~~an individual who, as defined by the division by rule]:~~

4240 [~~(i) manages operations at the premises of a licensee engaged in the retail sale of an~~
4241 ~~alcoholic product for consumption on the premises of the licensee;]~~

4242 [~~(ii) supervises the serving of an alcoholic product to a customer for consumption on~~

4243 ~~the premises of a licensee;]~~

4244 ~~[(iii) serves an alcoholic product to a customer for consumption on the premises of a~~
4245 ~~licensee;]~~

4246 (i) a retail manager as defined in Section 32B-5-402;

4247 (ii) retail staff as defined in Section 32B-5-402; and

4248 (iii) an individual who, as defined by division rule:

4249 ~~[(iv)]~~ (A) directly supervises the sale of beer to a customer for consumption off the
4250 premises of an off-premise beer retailer; or

4251 ~~[(v)]~~ (B) sells beer to a customer for consumption off the premises of an off-premise
4252 beer retailer.

4253 (b) If the individual does not have a valid record that the individual has completed an
4254 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

4255 (i) (A) complete an alcohol training and education seminar within 30 days of the
4256 following if the individual is described in Subsections (2)(a)(i) through (iii):

4257 (I) if the individual is an employee, the day the individual begins employment;

4258 (II) if the individual is an independent contractor, the day the individual is first hired;

4259 or

4260 (III) if the individual holds an ownership interest in the licensee, the day that the
4261 individual first engages in an activity that would result in that individual being required to
4262 complete an alcohol training and education seminar; or

4263 (B) complete an alcohol training and education seminar within the time periods
4264 specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv)
4265 and (v); and

4266 (ii) pay a fee:

4267 (A) to the seminar provider; and

4268 (B) that is equal to or greater than the amount established under Subsection (4)(h).

4269 (c) An individual shall have a valid record that the individual completed an alcohol

4270 training and education seminar within the time period provided in this Subsection (2) to engage
4271 in an activity described in Subsection (2)(a).

4272 (d) A record that an individual has completed an alcohol training and education
4273 seminar is valid for:

4274 (i) three years from the day on which the record is issued for an individual described in
4275 Subsection (2)(a)(i), (ii), or (iii); and

4276 (ii) five years from the day on which the record is issued for an individual described in
4277 Subsection (2)(a)(iv) or (v).

4278 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
4279 and education seminar, an individual shall:

4280 (i) attend the alcohol training and education seminar and take any test required to
4281 demonstrate completion of the alcohol training and education seminar in the physical presence
4282 of an instructor of the seminar provider; or

4283 (ii) complete the alcohol training and education seminar and take any test required to
4284 demonstrate completion of the alcohol training and education seminar through an online course
4285 or testing program that meets the requirements described in Subsection (2)(f).

4286 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4287 Administrative Rulemaking Act, establish one or more requirements for an online course or
4288 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
4289 the online course or testing program. In developing the requirements by rule the division shall
4290 consider whether to require:

4291 (i) authentication that the an individual accurately identifies the individual as taking the
4292 online course or test;

4293 (ii) measures to ensure that an individual taking the online course or test is focused on
4294 training material throughout the entire training period;

4295 (iii) measures to track the actual time an individual taking the online course or test is
4296 actively engaged online;

4297 (iv) a seminar provider to provide technical support, such as requiring a telephone
4298 number, email, or other method of communication that allows an individual taking the online
4299 course or test to receive assistance if the individual is unable to participate online because of
4300 technical difficulties;

4301 (v) a test to meet quality standards, including randomization of test questions and
4302 maximum time limits to take a test;

4303 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
4304 course or test, such as requiring a distinct online certificate with information printed on the

4305 certificate that identifies the person taking the online course or test, or requiring measures to
4306 inhibit duplication of a certificate;

4307 (vii) measures for the division to audit online courses or tests;

4308 (viii) measures to allow an individual taking an online course or test to provide an
4309 evaluation of the online course or test;

4310 (ix) a seminar provider to track the Internet protocol address or similar electronic
4311 location of an individual who takes an online course or test;

4312 (x) an individual who takes an online course or test to use an e-signature; or

4313 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
4314 certificate does not accurately reflect the individual who took the online course or test.

4315 (3) (a) A licensee may not permit an individual who is not in compliance with
4316 Subsection (2) to:

4317 (i) serve or supervise the serving of an alcoholic product to a customer for
4318 consumption on the premises of the licensee;

4319 (ii) engage in any activity that would constitute managing operations at the premises of
4320 a licensee that engages in the retail sale of an alcoholic product for consumption on the
4321 premises of the licensee;

4322 (iii) directly supervise the sale of beer to a customer for consumption off the premises
4323 of an off-premise beer retailer; or

4324 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
4325 retailer.

4326 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-5-403](#).

4327 (4) The division shall:

4328 (a) (i) provide alcohol training and education seminars; or

4329 (ii) certify one or more seminar providers;

4330 (b) establish the curriculum for an alcohol training and education seminar that includes
4331 the following subjects:

4332 (i) (A) alcohol as a drug; and

4333 (B) alcohol's effect on the body and behavior;

4334 (ii) recognizing the problem drinker or signs of intoxication;

4335 (iii) an overview of state alcohol laws related to responsible beverage sale or service,

4336 as determined in consultation with the Department of Alcoholic Beverage Control;
4337 (iv) dealing with the problem customer, including ways to terminate sale or service;
4338 and
4339 (v) for those supervising or engaging in the retail sale of an alcoholic product for
4340 consumption on the premises of a licensee, alternative means of transportation to get the
4341 customer safely home;
4342 (c) recertify each seminar provider every three years;
4343 (d) monitor compliance with the curriculum described in Subsection (4)(b);
4344 (e) maintain for at least five years a record of every person who has completed an
4345 alcohol training and education seminar;
4346 (f) provide the information described in Subsection (4)(e) on request to:
4347 (i) the Department of Alcoholic Beverage Control;
4348 (ii) law enforcement; or
4349 (iii) a person licensed by the state or a local government to sell an alcoholic product;
4350 (g) provide the Department of Alcoholic Beverage Control on request a list of any
4351 seminar provider certified by the division; and
4352 (h) establish a fee amount for each person attending an alcohol training and education
4353 seminar that is sufficient to offset the division's cost of administering this section.
4354 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4355 Administrative Rulemaking Act:
4356 (a) define what constitutes under this section an individual who:
4357 (i) manages operations at the premises of a licensee engaged in the retail sale of an
4358 alcoholic product for consumption on the premises of the licensee;
4359 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
4360 premises of a licensee;
4361 (iii) serves an alcoholic product to a customer for consumption on the premises of a
4362 licensee;
4363 (iv) directly supervises the sale of beer to a customer for consumption off the premises
4364 of an off-premise beer retailer; or
4365 (v) sells beer to a customer for consumption off the premises of an off-premise beer
4366 retailer;

- 4367 (b) establish criteria for certifying and recertifying a seminar provider; and
- 4368 (c) establish guidelines for the manner in which an instructor provides an alcohol
- 4369 education and training seminar.
- 4370 (6) A seminar provider shall:
- 4371 (a) obtain recertification by the division every three years;
- 4372 (b) ensure that an instructor used by the seminar provider:
- 4373 (i) follows the curriculum established under this section; and
- 4374 (ii) conducts an alcohol training and education seminar in accordance with the
- 4375 guidelines established by rule;
- 4376 (c) ensure that any information provided by the seminar provider or instructor of a
- 4377 seminar provider is consistent with:
- 4378 (i) the curriculum established under this section; and
- 4379 (ii) this section;
- 4380 (d) provide the division with the names of all persons who complete an alcohol training
- 4381 and education seminar provided by the seminar provider;
- 4382 (e) (i) collect a fee for each person attending an alcohol training and education seminar
- 4383 in accordance with Subsection (2); and
- 4384 (ii) forward to the division the portion of the fee that is equal to the amount described
- 4385 in Subsection (4)(h); and
- 4386 (f) issue a record to an individual that completes an alcohol training and education
- 4387 seminar provided by the seminar provider.
- 4388 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
- 4389 Administrative Procedures Act, the division finds that a seminar provider violates this section
- 4390 or that an instructor of the seminar provider violates this section, the division may:
- 4391 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 4392 (ii) revoke the certification of the seminar provider;
- 4393 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 4394 (iv) prohibit the seminar provider from using an instructor until such time that the
- 4395 seminar provider establishes to the satisfaction of the division that the instructor is in
- 4396 compliance with Subsection (6)(b).
- 4397 (b) The division may certify a seminar provider whose certification is revoked:

- 4398 (i) no sooner than 90 days from the date the certification is revoked; and
4399 (ii) if the seminar provider establishes to the satisfaction of the division that the
4400 seminar provider will comply with this section.

4401 Section 72. Section **63I-2-232** is amended to read:

4402 **63I-2-232. Repeal dates -- Title 32A.**

- 4403 (1) Subsection 32B-1-102(7) is repealed July 1, 2018.
4404 (2) Subsection 32B-1-102(33)(a)(i)(B), the language that states "32B-6-205(12)(b)(ii),
4405 32B-6-305(12)(b)(ii)," and ", or 32B-6-905(12)(b)(ii)" is repealed July 1, 2018.
4406 (3) Subsection 32B-1-102(113)(b), the language that states "32B-6-205(12)(b)(ii),
4407 32B-6-305(12)(b)(ii)," and ", or 32B-6-905(12)(b)(ii)" is repealed July 1, 2018.
4408 (4) Subsection 32B-1-604(4) is repealed January 1, 2018.
4409 (5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2018.
4410 (6) Section 32B-6-205 is repealed July 1, 2018.
4411 (7) Subsection 32B-6-205.2(17) is repealed July 1, 2018.
4412 (8) Section 32B-6-205.3 is repealed July 1, 2018.
4413 (9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2018.
4414 (10) Section 32B-6-305 is repealed July 1, 2018.
4415 (11) Subsection 32B-6-305.2(17) is repealed July 1, 2018.
4416 (12) Section 32B-6-305.3 is repealed July 1, 2018.
4417 (13) Section 32B-6-409 is repealed July 1, 2018.
4418 (14) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2018.
4419 (15) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2018.
4420 (16) Section 32B-6-905 is repealed July 1, 2018.
4421 (17) Subsection 32B-6-905.1(17) is repealed July 1, 2018.
4422 (18) Section 32B-6-905.2 is repealed July 1, 2018.
4423 (19) Subsection 32B-8-402(1)(b) is repealed July 1, 2018.

4424 Section 73. **Repealer.**

4425 This bill repeals:

4426 Section **32B-6-205.1, Credit for grandfathered bar structures of full-service**
4427 **restaurant licensee.**

4428 Section **32B-6-305.1, Credit for grandfathered bar structures for limited-service**

- 4429 **restaurant licensee.**
- 4430 Section **32B-7-301**, Title.
- 4431 Section **32B-7-302**, Definitions.
- 4432 Section **32B-7-303**, Penalties related to sales to minors.
- 4433 Section **32B-7-304**, Hearings.

Legislative Review Note
Office of Legislative Research and General Counsel