

**AMENDMENTS RELATED TO ALCOHOLIC BEVERAGES**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies requirements for labeling and packaging of malted beverages;
- ▶ addresses general operational requirements for off-premise beer retailers; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**32B-1-604**, as enacted by Laws of Utah 2010, Chapter 276

**32B-1-606**, as enacted by Laws of Utah 2010, Chapter 276

**32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307

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

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

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



28 **commission and department.**

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

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

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

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

33 and

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

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

38 (3) (a) ~~[A]~~ Subject to Subsection (4), a manufacturer may comply with the requirement  
39 of Subsection (1)(a)(ii) by including:

40 (i) on ~~[a label and]~~ the label on the container and on all packaging for a malted  
41 beverage any of the following terms:

42 ~~[(a)]~~ (A) beer;

43 ~~[(b)]~~ (B) ale;

44 ~~[(c)]~~ (C) porter;

45 ~~[(d)]~~ (D) stout;

46 ~~[(e)]~~ (E) lager;

47 ~~[(f)]~~ (F) lager beer; or

48 ~~[(g)]~~ (G) another class or type designation commonly applied to a malted beverage that  
49 conveys by a recognized term that the product contains alcohol[-]; and

50 (ii) a statement of alcohol content.

51 (b) A term listed in this Subsection (3) does not include the term's use in a name  
52 traditionally used for a nonalcoholic beverage such as root beer or ginger ale.

53 (4) Notwithstanding Subsection (3), if a malted beverage that is not a flavored malt  
54 beverage is labeled or packaged in a manner that is similar to a label or packaging used for a  
55 nonalcoholic beverage, a manufacturer of the malted beverage may not distribute or sell the  
56 malted beverage in this state until the day on which the manufacturer receives approval of the  
57 labeling and packaging from the department in accordance with Section [32B-1-606](#) as if it were  
58 a flavored malt beverage, except that a statement of alcohol content on a label or packaging

59 may use abbreviations.

60 Section 2. Section **32B-1-606** is amended to read:

61 **32B-1-606. Special procedure for flavored malt beverages.**

62 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a  
63 label or packaging used for a nonalcoholic beverage, a manufacturer of the flavored malt  
64 beverage may not distribute or sell the flavored malt beverage in this state until the day on  
65 which the manufacturer receives approval of the labeling and packaging from the department in  
66 accordance with:

67 (a) Sections **32B-1-604** and **32B-1-605**; and

68 (b) this section.

69 (2) The department may not approve the labeling and packaging of a flavored malt  
70 beverage described in Subsection (1) unless in addition to the requirements of Section  
71 **32B-1-604** the labeling and packaging complies with the following:

72 (a) The label on the container of flavored malt beverage shall bear a prominently  
73 displayed label or a firmly affixed sticker that provides the following information:

74 (i) the statement:

75 (A) "alcoholic beverage"; or

76 (B) "contains alcohol"; and

77 (ii) the alcohol content of the flavored malt beverage.

78 (b) Packaging of a flavored malt beverage shall prominently include, either imprinted  
79 on the packaging or imprinted on a sticker firmly affixed to the packaging, the statement:

80 (i) "alcoholic beverage"; or

81 (ii) "contains alcohol".

82 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required  
83 by rule made by the commission[-], except that the statement shall be:

84 (i) in capital letters and bold type;

85 (ii) in a solid contrasting background;

86 (iii) on the front of the container and packaging;

87 (iv) in a format that is readily legible;

88 (v) separate and apart from any descriptive or explanatory information; and

89 (vi) in a type size no smaller than three millimeters wide and three millimeters high.

90 (d) A statement of alcohol content required by Subsection (2)(a)(ii):  
91 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;  
92 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"  
93 or "weight"; and  
94 (iii) shall be in a format required by rule made by the commission[-], except that the  
95 statement shall appear:

- 96 (A) in capital letters and bold type;
- 97 (B) in a solid contrasting background;
- 98 (C) in a format that is readily legible; and
- 99 (D) separate and apart from any descriptive or explanatory information.

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

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

- 105 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:
  - 106 (i) is similar to those of a nonalcoholic beverage or product; or
  - 107 (ii) can be confused with a nonalcoholic beverage;
- 108 (b) whether the flavored malt beverage possesses a character and flavor distinctive  
109 from a traditional malted beverage;
- 110 (c) whether the flavored malt beverage:
  - 111 (i) is prepackaged;
  - 112 (ii) contains high levels of caffeine and other additives; and
  - 113 (iii) is marketed as a beverage that is specifically designed to provide energy;
- 114 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;  
115 or
- 116 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor  
117 that masks the taste of a traditional malted beverage.

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

119 **32B-7-202. General operational requirements for off-premise beer retailer.**

120 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply

121 with this section.

122 (b) Failure to comply with this section may result in a suspension or revocation of a  
123 local license.

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

127 (A) a beer wholesaler licensee; or

128 (B) a small brewer that manufactures the beer.

129 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

130 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a  
131 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer  
132 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
133 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by  
134 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

135 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

136 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a  
137 container larger than two liters.

138 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer  
139 unless:

140 (a) the sale is done under the supervision of a person 21 years of age or older who is on  
141 the licensed premises; and

142 (b) the minor is at least 16 years of age.

143 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer  
144 retailer shall:

145 (i) display beer sold by the off-premise beer retailer in ~~[an]~~ a single area of the  
146 off-premise beer retailer's premises that is visibly separate and distinct from the area where  
147 nonalcoholic beverages are displayed; and

148 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

149 (A) is prominent;

150 (B) is easily readable by a consumer;

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

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

154 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer  
155 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

156 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is  
157 labeled, packaged, or advertised as:

158 (i) a malt cooler; or

159 (ii) a beverage that may provide energy.

160 (d) The commission shall define by rule what constitutes [~~an~~] a "single area of the  
161 off-premise beer retailer's premises that is visibly separate and distinct from the area where a  
162 nonalcoholic beverage is displayed."

163 (e) A violation of this Subsection (5) is [~~an infraction~~] a class B misdemeanor.

164 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or  
165 who sells beer to a patron for consumption off the premises of the off-premise beer retailer  
166 shall wear a unique identification badge:

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

168 (ii) visible above the waist;

169 (iii) bearing the staff's:

170 (A) first or last name;

171 (B) initials; or

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

173 (iv) with the number or letters on the unique identification badge being sufficiently  
174 large to be clearly visible and identifiable while engaging in or directly supervising the retail  
175 sale of beer.

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

178 (i) full name;

179 (ii) address; and

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

181 (B) similar identification number.

182 (c) An off-premise beer retailer shall make available a record required to be made or

183 maintained under this Subsection (6) for immediate inspection by:

184 (i) a peace officer; or

185 (ii) a representative of the local authority that issues the off-premise beer retailer  
186 license.

187 (d) A local authority may impose a fine of up to \$250 against an off-premise beer  
188 retailer that does not comply or require its staff to comply with this Subsection (6).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**