

ALCOHOL AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ amends definitional provisions;
- ▶ removes requirements related to state labels and markings;
- ▶ prohibits tampering with a package of an alcoholic beverage;
- ▶ addresses the nature of an adjudicative proceeding as a civil action including the burden of proof and the general applicability of mens rea requirements;
- ▶ makes procedural clarifications for administrative actions;
- ▶ provides for electronic verification of proof of age by certain club licensees;
- ▶ removes restrictions related to election days;
- ▶ addresses quotas;
- ▶ addresses proximity for a restaurant liquor or limited restaurant license;
- ▶ addresses dispensing, storage, and bar structures for a restaurant;
- ▶ changes the insurance and liability limits related to dramshop;
- ▶ modifies the definition of a "convention center" and provides for limited grandfathering;
- ▶ creates a resort license including:
 - defining terms;
 - providing for licensing, including the creation of sublicenses;
 - establishing a resort spa sublicense;

- 30 • imposing operational requirements for a resort license;
- 31 • addressing the application of operational requirements to a sublicense;
- 32 • providing for enforcement with relation to a resort license or a sublicense;
- 33 • addressing the application of the Nuisance Licensee Act to a resort license or
- 34 sublicense;
- 35 • providing for the enforcement of criminal penalties; and
- 36 • expanding protections for employees to encompass employees of a resort
- 37 licensee;
- 38 ▶ establishes requirements for renting or leasing a club license premises;
- 39 ▶ clarifies the application of criminal procedures, principles, and penalties;
- 40 ▶ addresses training requirements for law enforcement officers;
- 41 ▶ expands licenses subject to protections for employees who exercise judgment;
- 42 ▶ provides for a study of penalties related to minors and dramshop insurance; and
- 43 ▶ makes technical and conforming changes.

44 **Monies Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 This bill provides an effective date.

48 This bill provides revisor instructions.

49 **Utah Code Sections Affected:**

50 **AMENDS:**

51 **11-10-1**, as last amended by Laws of Utah 1990, Chapter 23

52 **26-38-2**, as last amended by Laws of Utah 2006, Chapter 202

53 **26-38-3**, as last amended by Laws of Utah 2007, Chapter 20

54 **32A-1-105**, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391

55 **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162

56 **32A-1-109**, as last amended by Laws of Utah 2003, Chapter 314

57 **32A-1-115**, as last amended by Laws of Utah 2008, Chapter 382

- 58 **32A-1-119**, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391
- 59 **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 60 **32A-1-603**, as last amended by Laws of Utah 2008, Chapter 382
- 61 **32A-2-103**, as last amended by Laws of Utah 2007, Chapter 329
- 62 **32A-3-106**, as last amended by Laws of Utah 2008, Chapter 266
- 63 **32A-4-101**, as last amended by Laws of Utah 2008, Chapter 391
- 64 **32A-4-102**, as last amended by Laws of Utah 2008, Chapter 391
- 65 **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 66 **32A-4-202**, as last amended by Laws of Utah 2004, Chapter 268
- 67 **32A-4-302**, as last amended by Laws of Utah 2008, Chapter 391
- 68 **32A-4-303**, as last amended by Laws of Utah 2008, Chapter 391
- 69 **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 70 **32A-4-401**, as last amended by Laws of Utah 2008, Chapter 391
- 71 **32A-4-402**, as last amended by Laws of Utah 2008, Chapter 391
- 72 **32A-5-101**, as last amended by Laws of Utah 2008, Chapter 391
- 73 **32A-5-102**, as last amended by Laws of Utah 2008, Chapter 391
- 74 **32A-5-103 (Effective 07/01/09)**, as last amended by Laws of Utah 2008, Chapters 26
- 75 and 382
- 76 **32A-5-104**, as last amended by Laws of Utah 2008, Chapter 391
- 77 **32A-5-106**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 78 **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 79 **32A-9-103**, as last amended by Laws of Utah 2008, Chapter 382
- 80 **32A-10-201**, as last amended by Laws of Utah 2008, Chapter 391
- 81 **32A-10-202**, as last amended by Laws of Utah 2008, Chapter 391
- 82 **32A-12-101**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 83 **32A-12-102**, as last amended by Laws of Utah 2004, Chapter 268
- 84 **32A-12-104**, as last amended by Laws of Utah 2007, Chapter 322
- 85 **32A-12-209.5**, as last amended by Laws of Utah 2008, Chapter 3

- 86 **32A-12-212**, as last amended by Laws of Utah 2008, Chapter 391
- 87 **32A-12-213**, as last amended by Laws of Utah 2007, Chapter 284
- 88 **32A-12-219**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 89 **32A-12-222**, as last amended by Laws of Utah 2008, Chapter 391
- 90 **32A-12-301**, as last amended by Laws of Utah 2008, Chapter 391
- 91 **32A-14a-102**, as last amended by Laws of Utah 2008, Chapter 3
- 92 **32A-14a-103**, as enacted by Laws of Utah 2000, Chapter 197
- 93 **53-10-305**, as last amended by Laws of Utah 2000, Chapter 1

94 ENACTS:

- 95 **32A-1-304.5**, Utah Code Annotated 1953
- 96 **32A-4a-101**, Utah Code Annotated 1953
- 97 **32A-4a-102**, Utah Code Annotated 1953
- 98 **32A-4a-201**, Utah Code Annotated 1953
- 99 **32A-4a-202**, Utah Code Annotated 1953
- 100 **32A-4a-203**, Utah Code Annotated 1953
- 101 **32A-4a-204**, Utah Code Annotated 1953
- 102 **32A-4a-205**, Utah Code Annotated 1953
- 103 **32A-4a-301**, Utah Code Annotated 1953
- 104 **32A-4a-302**, Utah Code Annotated 1953
- 105 **32A-4a-303**, Utah Code Annotated 1953
- 106 **32A-4a-304**, Utah Code Annotated 1953
- 107 **32A-4a-305**, Utah Code Annotated 1953
- 108 **32A-4a-401**, Utah Code Annotated 1953
- 109 **32A-4a-402**, Utah Code Annotated 1953
- 110 **32A-4a-501**, Utah Code Annotated 1953
- 111 **32A-4a-502**, Utah Code Annotated 1953
- 112 **32A-4a-503**, Utah Code Annotated 1953
- 113 **32A-5-109**, Utah Code Annotated 1953

114 REPEALS:

115 **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314

116 **Uncodified Material Affected:**

117 ENACTS UNCODIFIED MATERIAL



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

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

120 **11-10-1. Business license required -- Authorization for issuance, denial,**
121 **suspension, or revocation by local authority.**

122 (1) As used in this chapter, [~~"club," "local authority," "restaurant," and "person"~~] the
123 following have the meaning set forth in Section 32A-1-105[~~7~~]:

124 (a) "club licensee";

125 (b) "local authority";

126 (c) "person"; and

127 (d) "restaurant."

128 (2) A person may not operate an association, restaurant, club license, or similar
129 business that allows customers, members, guests, [~~visitors,~~] or other persons to possess or
130 consume alcoholic beverages on the premises of the club licensee, association, restaurant, or
131 similar business premises without a business license.

132 (3) Any local authority may issue a business license to any person who owns or
133 operates an association, restaurant, club license premise, or similar business that allows the
134 customers, members, guests, [~~visitors,~~] or other persons to hold, store, possess, or consume
135 alcoholic beverages on the premises. This license does not permit any person to hold, store,
136 possess, or consume alcoholic beverages on the premises other than as provided in Title 32A,
137 [~~the~~] Alcoholic Beverage Control Act.

138 (4) Any local authority may suspend or revoke a business license for a violation of
139 Title 32A, [~~the~~] Alcoholic Beverage Control Act.

140 (5) Each local authority shall set policy by written rules that establish criteria and
141

142 procedures for granting, denying, suspending, or revoking licenses issued under this chapter.

143 (6) A license issued under this section constitutes consent of the local authority within
144 the meaning of Title 32A, [the] Alcoholic Beverage Control Act.

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

146 **26-38-2. Definitions.**

147 As used in this chapter:

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

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

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

154 (c) restaurants, cafes, or cafeterias;

155 (d) taverns as defined in Section 32A-1-105, or cabarets;

156 (e) shopping malls, retail stores, grocery stores, or arcades;

157 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
158 sites, auditoriums, or arenas;

159 (g) barber shops, hair salons, or laundromats;

160 (h) sports or fitness facilities;

161 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
162 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
163 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
164 of these;

165 (j) (i) any child care facility or program subject to licensure or certification under this
166 title, including those operated in private homes, when any child cared for under that license is
167 present; and

168 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
169 subject to licensure or certification under this title, when any child cared for by the provider,

170 other than the child of the provider, is present;

171 (k) public or private elementary or secondary school buildings and educational
172 facilities or the property on which those facilities are located;

173 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
174 religious organization when used solely by the organization members or their guests or
175 families;

176 (m) any facility rented or leased for private functions from which the general public is
177 excluded and arrangements for the function are under the control of the function sponsor;

178 (n) any workplace that is not a place of public access or a publicly owned building or
179 office but has one or more employees who are not owner-operators of the business; ~~and~~

180 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
181 stating "no smoking", "thank you for not smoking", or similar statement~~[-]; and~~

182 (p) ~~any private~~ a club ~~licensed~~ licensee under Title 32A, Chapter 5, ~~Private~~ Club
183 ~~Liquor~~ Licenses.

184 (2) "Publicly owned building or office" means any enclosed indoor place or portion of
185 a place owned, leased, or rented by any state, county, or municipal government, or by any
186 agency supported by appropriation of, or by contracts or grants from, funds derived from the
187 collection of federal, state, county, or municipal taxes.

188 (3) "Smoking" means the possession of any lighted tobacco product in any form.

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

190 **26-38-3. Restriction on smoking in public places and in specified places --**

191 **Exceptions.**

192 (1) Except as provided in Subsection (2), smoking is prohibited in all enclosed indoor
193 places of public access and publicly owned buildings and offices.

194 (2) Subsection (1) does not apply to:

195 (a) areas not commonly open to the public of owner-operated businesses having no
196 employees other than the owner-operator;

197 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other

198 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
199 of these facilities, including dining areas and lobby areas; and

200 ~~[(c) before January 1, 2009, taverns, as defined in Section 32A-1-105, that are:]~~

201 ~~[(i) licensed on or before May 15, 2006; or]~~

202 ~~[(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
203 ~~ownership;]~~

204 ~~[(d) before January 1, 2009, class D private clubs, as defined in Section 32A-5-101,~~
205 ~~that are:]~~

206 ~~[(i) licensed on or before May 15, 2006; or]~~

207 ~~[(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
208 ~~ownership;]~~

209 ~~[(e) before January 1, 2009, class B private clubs, as defined in Section 32A-5-101~~
210 ~~that:]~~

211 ~~[(i) are licensed:]~~

212 ~~[(A) on or before May 15, 2006; or]~~

213 ~~[(B) on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
214 ~~ownership; and]~~

215 ~~[(ii) do not permit an individual under the age of 21 in the class B private club, unless~~
216 ~~the individual is active military; and]~~

217 ~~[(f)]~~ (c) separate enclosed smoking areas:

218 (i) located in the passenger terminals of an international airport located in the city of
219 the first class;

220 (ii) vented directly to the outdoors; and

221 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
222 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

223 Section 4. Section **32A-1-105** is amended to read:

224 **32A-1-105. Definitions.**

225 As used in this title:

226 (1) "Airport lounge" means a place of business licensed to sell an alcoholic beverage,
227 at retail, for consumption on its premises located at an international airport with a United
228 States Customs office on the premises of the international airport.

229 (2) "Alcoholic beverage" means the following as the term is defined in this section:

230 (a) beer;

231 (b) flavored malt beverage; and

232 (c) liquor, which [~~on or after October 1, 2008,~~] includes a flavored malt beverage.

233 (3) (a) "Alcoholic product" means a product that:

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

235 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
236 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
237 in an amount greater than the amount prescribed in Subsection (3)(a)(i).

238 (b) "Alcoholic product" does not include any of the following common items that
239 otherwise come within the definition of an alcoholic product:

240 (i) except as provided in Subsection (3)(c), extract;

241 (ii) vinegar;

242 (iii) cider;

243 (iv) essence;

244 (v) tincture;

245 (vi) food preparation; or

246 (vii) an over-the-counter drug or medicine.

247 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
248 product when it is used as a flavoring in the manufacturing of an alcoholic product.

249 (4) (a) [~~"Bar"~~] Except as provided in Subsection (4)(b), "bar" means a counter or
250 similar structure:

251 [~~(a)~~] (i) at which an alcoholic beverage or an alcoholic product is:

252 [~~(i)~~] (A) stored; or

253 [~~(ii)~~] (B) dispensed; or

254 ~~(b)~~ (ii) from which an alcoholic beverage is served.

255 (b) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part
256 3, Limited Restaurant Licenses, "bar structure" means a surface or structure on the premises of
257 a restaurant if on or at any place of the surface or structure an alcoholic beverage or alcoholic
258 product is:

259 (i) stored; or

260 (ii) dispensed.

261 (5) (a) Subject to Subsection (5)(d), "beer" means a product that:

262 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
263 volume or 3.2% by weight; and

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

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

266 (c) Beer includes a product that:

267 (i) contains alcohol in the percentages described in Subsection (5)(a); and

268 (ii) is referred to as:

269 (A) beer;

270 (B) ale;

271 (C) porter;

272 (D) stout;

273 (E) lager; or

274 (F) a malt or malted beverage.

275 (d) ~~[On or after October 1, 2008, "beer"]~~ "Beer" does not include a flavored malt
276 beverage.

277 (6) (a) "Beer retailer" means a business that is:

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

280 (ii) licensed to sell beer by:

281 (A) the commission;

- 282 (B) a local authority; or
- 283 (C) both the commission and a local authority.
- 284 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
285 beer to a patron for consumption off the beer retailer's premises.
- 286 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 287 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
288 patron for consumption on the beer retailer's premises, regardless of whether the business sells
289 beer for consumption off the beer retailer's premises.
- 290 (7) "Billboard" means a public display used to advertise including:
 - 291 (a) a light device;
 - 292 (b) a painting;
 - 293 (c) a drawing;
 - 294 (d) a poster;
 - 295 (e) a sign;
 - 296 (f) a signboard; or
 - 297 (g) a scoreboard.
- 298 (8) "Brewer" means a person engaged in manufacturing:
 - 299 (a) beer;
 - 300 (b) heavy beer; or
 - 301 (c) a flavored malt beverage.
- 302 (9) "Cash bar" means the service of an alcoholic beverage:
 - 303 (a) at:
 - 304 (i) a banquet; or
 - 305 (ii) a temporary event for which a permit is issued under this title; and
 - 306 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
307 beverage.
- 308 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided
309 by a bus company to a group of persons pursuant to a common purpose:

310 (a) under a single contract;
311 (b) at a fixed charge in accordance with the bus company's tariff; and
312 (c) for the purpose of giving the group of persons the exclusive use of the passenger
313 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
314 destinations.

315 (11) "Church" means a building:

- 316 (a) set apart for the purpose of worship;
- 317 (b) in which religious services are held;
- 318 (c) with which clergy is associated; and
- 319 (d) which is tax exempt under the laws of this state.

320 (12) [~~"Club" and "private club"~~] "Club licensee" means [~~any of the following~~
321 ~~organized primarily for the benefit of its members:~~] a person licensed under Chapter 5, Club
322 Licenses.

- 323 [~~(a) a social club;~~]
- 324 [~~(b) a recreational association;~~]
- 325 [~~(c) a fraternal association;~~]
- 326 [~~(d) an athletic association; or~~]
- 327 [~~(e) a kindred association.~~]

328 (13) "Commission" means the Alcoholic Beverage Control Commission.

329 (14) "Community location" means:

- 330 (a) a public or private school;
- 331 (b) a church;
- 332 (c) a public library;
- 333 (d) a public playground; or
- 334 (e) a public park.

335 (15) "Community location governing authority" means:

- 336 (a) the governing body of the community location; or
- 337 (b) if the commission does not know who is the governing body of a community

338 location, a person who appears to the commission to have been given on behalf of the
339 community location authority to prohibit an activity at the community location.

340 (16) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4,
341 Part 3, Limited Restaurant Licenses:

342 (a) Subject to Subsection (16)(b), "counter" means a surface or structure in a dining
343 area of a restaurant where seating is provided to a patron for service of food.

344 (b) "Counter" does not include a surface or structure if on or at any point of the
345 surface or structure an alcoholic beverage or alcoholic product is:

346 (i) stored; or

347 (ii) dispensed.

348 [~~16~~] (17) "Department" means the Department of Alcoholic Beverage Control.

349 [~~17~~] (18) "Disciplinary proceeding" means an adjudicative proceeding permitted
350 under this title:

351 (a) against:

352 (i) a permittee;

353 (ii) a licensee;

354 (iii) a manufacturer;

355 (iv) a supplier;

356 (v) an importer;

357 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

358 or

359 (vii) an officer, employee, or agent of:

360 (A) a person listed in Subsections [~~17~~] (18)(a)(i) through (vi); or

361 (B) a package agent; and

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

363 [~~18~~] (19) "Director," unless the context requires otherwise, means the director
364 appointed under Section 32A-1-108.

365 (20) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4,

366 Part 3, Limited Restaurant Licenses, "dispense" means:

367 (a) drawing of an alcoholic beverage or alcoholic product:

368 (i) from an area where it is stored; or

369 (ii) as provided in Subsection 32A-4-106(7)(e)(ii)(B) or 32A-4-307(7)(e)(ii)(B); and

370 (b) using the alcoholic beverage or alcoholic product described in Subsection (20)(a)

371 on the premises of the restaurant to mix or prepare an alcoholic beverage for service to a

372 patron of the restaurant.

373 ~~[(19)]~~ (21) "Distressed merchandise" means an alcoholic beverage in the possession of
374 the department that is saleable, but for some reason is unappealing to the public.

375 ~~[(20)]~~ (22) "Flavored malt beverage" means a beverage:

376 (a) that contains at least .5% alcohol by volume;

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

380 (c) to which is added a flavor or other ingredient containing alcohol, except for a hop
381 extract; and

382 (d) (i) for which the producer is required to file a formula for approval with the United
383 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

385 ~~[(21)]~~ (23) "Guest" means ~~[a person accompanied by an active member or visitor of a~~
386 ~~club who enjoys only those privileges derived from the host for the duration of the visit to the~~
387 ~~club]~~ an individual who meets the requirements of Subsection 32A-5-107(1)(i) or (j).

388 ~~[(22)]~~ (24) (a) "Heavy beer" means a product that:

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

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

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

392 ~~[(23)]~~ (25) "Hosted bar" means the service of an alcoholic beverage:

393 (a) without charge; and

394 (b) at a:
395 (i) banquet; or
396 (ii) privately hosted event.
397 ~~[(24)]~~ (26) "Identification card" means an identification card issued under Title 53,
398 Chapter 3, Part 8, Identification Card Act.
399 ~~[(25)]~~ (27) "Interdicted person" means a person to whom the sale, gift, or provision of
400 an alcoholic beverage is prohibited by:
401 (a) law; or
402 (b) court order.
403 ~~[(26)]~~ (28) "Intoxicated" means that ~~[to a degree that is unlawful under Section~~
404 ~~76-9-701]~~ a person ~~[is under the influence of]:~~
405 (a) is significantly impaired as to the person's mental or physical functions as a result
406 of the use of:
407 ~~[(a)]~~ (i) an alcoholic beverage;
408 ~~[(b)]~~ (ii) a controlled substance;
409 ~~[(c)]~~ (iii) a substance having the property of releasing toxic vapors; or
410 ~~[(d)]~~ (iv) a combination of Subsections ~~[(26)]~~ (28)(a)(i) through ~~[(c)]~~ (iii); and
411 (b) exhibits plain and easily observed outward manifestations of behavior or physical
412 signs produced by the over consumption of an alcoholic beverage.
413 (29) "Invitee" is as defined in Section 32A-4a-102.
414 ~~[(27)]~~ (30) "Licensee" means a person ~~[issued]~~ granted a license by the commission to
415 sell, manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
416 controlled by the person.
417 ~~[(28)]~~ (31) "Limousine" means a motor vehicle licensed by the state or a local
418 authority, other than a bus or taxicab:
419 (a) in which the driver and a passenger are separated by a partition, glass, or other
420 barrier; and
421 (b) that is provided by a company to one or more individuals at a fixed charge in

422 accordance with the company's tariff for the purpose of giving the one or more individuals the
423 exclusive use of the limousine and a driver to travel to one or more specified destinations.

424 ~~[(29)]~~ (32) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,
425 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,
426 vinous, or fermented, or other drink, or drinkable liquid that:

427 (A) contains at least .5% alcohol by volume; and

428 (B) is suitable to use for beverage purposes.

429 (ii) ~~[On or after October 1, 2008, "liquor"]~~ "Liquor" includes a flavored malt beverage.

430 (b) "Liquor" does not include a beverage defined as a beer.

431 ~~[(30)]~~ (33) "Local authority" means:

432 (a) the governing body of the county if the premises are located in an unincorporated
433 area of a county; or

434 (b) the governing body of the city or town if the premises are located in an
435 incorporated city or a town.

436 ~~[(31)]~~ (34) "Manufacture" means to distill, brew, rectify, mix, compound, process,
437 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
438 others.

439 ~~[(32)]~~ (35) "Member" means ~~[a person]~~ an individual who, after paying regular dues,
440 has full privileges of ~~[a]~~ an equity club licensee or fraternal club ~~[under this title]~~ licensee, as
441 defined in Section 32A-5-101.

442 ~~[(33)]~~ (36) (a) "Military installation" means a base, air field, camp, post, station, yard,
443 center, or homeport facility for a ship:

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

445 (B) of the National Guard;

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

447 (iii) including a leased facility.

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

449 (i) civil works;

450 (ii) a rivers and harbors project; or

451 (iii) a flood control project.

452 [~~34~~] (37) "Minor" means an individual under the age of 21 years.

453 [~~35~~] (38) "Nude," "nudity," or "state of nudity" means:

454 (a) the appearance of:

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

456 (ii) a human genital;

457 (iii) a human pubic area; or

458 (iv) a human anus; or

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

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

461 (ii) a human genital;

462 (iii) a human pubic area; or

463 (iv) a human anus.

464 [~~36~~] (39) "Outlet" means a location other than a state store or package agency where
465 an alcoholic beverage is sold pursuant to a license [~~issued~~] granted by the commission.

466 [~~37~~] (40) "Package" means any of the following containing liquor:

467 (a) a container;

468 (b) a bottle;

469 (c) a vessel; or

470 (d) other receptacle.

471 [~~38~~] (41) "Package agency" means a retail liquor location operated:

472 (a) under a contractual agreement with the department; and

473 (b) by a person:

474 (i) other than the state; and

475 (ii) who is authorized by the commission to sell package liquor for consumption off
476 the premises of the package agency.

477 [~~39~~] (42) "Package agent" means a person permitted by the commission to operate a

478 package agency pursuant to a contractual agreement with the department to sell liquor from
479 premises that the package agent shall provide and maintain.

480 [~~(40)~~] (43) "Permittee" means a person issued a permit by the commission to perform
481 an act or exercise a privilege as specifically granted in the permit.

482 [~~(41)~~] (44) "Person" means an individual, partnership, firm, corporation, limited
483 liability company, association, business trust, or other form of business enterprise, including a
484 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
485 more limited meaning is disclosed by the context.

486 [~~(42)~~] (45) "Premises" means a building, enclosure, room, or equipment used in
487 connection with the sale, storage, service, manufacture, distribution, or consumption of an
488 alcoholic product, unless otherwise defined in this title or in the rules adopted by the
489 commission.

490 [~~(43)~~] (46) "Prescription" means a writing in legal form, signed by a physician or
491 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

492 [~~(44)~~] (47) (a) "Privately hosted event" or "private social function" means a specific
493 social, business, or recreational event:

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

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

498 (b) "Privately hosted event" and "private social function" does not include an event to
499 which the general public is invited, whether for an admission fee or not.

500 [~~(45)~~] (48) (a) "Proof of age" means:

501 (i) an identification card;

502 (ii) an identification that:

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

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

- 506 (C) includes date of birth; and
- 507 (D) has a picture affixed;
- 508 (iii) a valid driver license certificate that:
- 509 (A) includes date of birth;
- 510 (B) has a picture affixed; and
- 511 (C) is issued:
- 512 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 513 (II) in accordance with the laws of the state in which it is issued;
- 514 (iv) a military identification card that:
- 515 (A) includes date of birth; and
- 516 (B) has a picture affixed; or
- 517 (v) a valid passport.
- 518 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 519 Section 53-3-207.
- 520 [~~(46)~~] (49) (a) "Public building" means a building or permanent structure owned or
- 521 leased by the state, a county, or local government entity that is used for:
- 522 (i) public education;
- 523 (ii) transacting public business; or
- 524 (iii) regularly conducting government activities.
- 525 (b) "Public building" does not mean or refer to a building owned by the state or a
- 526 county or local government entity when the building is used by a person, in whole or in part,
- 527 for a proprietary function.
- 528 [~~(47)~~] (50) "Representative" means an individual who is compensated by salary,
- 529 commission, or other means for representing and selling an alcoholic beverage product of a
- 530 manufacturer, supplier, or importer of liquor including:
- 531 (a) wine;
- 532 (b) heavy beer; or
- 533 (c) [~~on or after October 1, 2008;~~] a flavored malt beverage.

534 [~~48~~] (51) "Residence" means a person's principal place of abode within Utah.

535 (52) "Resident," in relation to a resort, is as defined in Section 32A-4a-102.

536 (53) "Resort" is as defined in Section 32A-4a-102.

537 [~~49~~] (54) "Restaurant" means a business establishment:

538 (a) where a variety of foods [~~is~~] are prepared and complete meals are served to the
539 general public;

540 (b) located on a premises having adequate culinary fixtures for food preparation and
541 dining accommodations; and

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

543 [~~50~~] (55) "Retailer" means a person engaged in the sale or distribution of an
544 alcoholic beverage to a consumer.

545 [~~51~~] (56) (a) "Sample" includes:

546 (i) a department sample; and

547 (ii) an industry representative sample.

548 (b) "Department sample" means liquor that is placed in the possession of the
549 department for testing, analysis, and sampling including:

550 (i) wine;

551 (ii) heavy beer; or

552 (iii) [~~on or after October 1, 2008,~~] a flavored malt beverage.

553 (c) "Industry representative sample" means liquor that is placed in the possession of
554 the department:

555 (i) for testing, analysis, and sampling by a local industry representative on the
556 premises of the department to educate the local industry representative of the quality and
557 characteristics of the product; and

558 (ii) including:

559 (A) wine;

560 (B) heavy beer; or

561 (C) [~~on or after October 1, 2008,~~] a flavored malt beverage.

562 [~~(52)~~] (57) (a) "School" means a building used primarily for the general education of
563 minors.

564 (b) "School" does not include:

565 (i) a nursery school;

566 (ii) an infant day care center; or

567 (iii) a trade or technical school.

568 [~~(53)~~] (58) "Sell," "sale," and "to sell" means a transaction, exchange, or barter
569 whereby, for consideration, an alcoholic beverage is either directly or indirectly transferred,
570 solicited, ordered, delivered for value, or by a means or under a pretext is promised or
571 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
572 employee, unless otherwise defined in this title or the rules made by the commission.

573 [~~(54)~~] (59) "Seminude," "seminudity," or "state of seminudity" means a state of dress
574 in which opaque clothing covers no more than:

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

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

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

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

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

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

582 [~~(55)~~] (60) "Sexually oriented entertainer" means a person who while in a state of
583 seminudity appears at or performs:

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

585 (b) on the premises of:

586 (i) a [~~class D private~~] social club licensee as defined in [~~Subsection~~] Section
587 32A-5-101[~~(3)~~]; or

588 (ii) a tavern;

589 (c) on behalf of or at the request of the licensee described in Subsection [~~(55)~~] (60)(b);

- 590 (d) on a contractual or voluntary basis; and
- 591 (e) whether or not the person is designated:
 - 592 (i) an employee of the licensee described in Subsection [~~(55)~~] (60)(b);
 - 593 (ii) an independent contractor of the licensee described in Subsection [~~(55)~~] (60)(b);
 - 594 (iii) an agent of the licensee described in Subsection [~~(55)~~] (60)(b); or
 - 595 (iv) otherwise of the licensee described in Subsection [~~(55)~~] (60)(b).

596 [~~(56)~~] (61) "Small brewer" means a brewer who manufactures less than 60,000 barrels
597 of beer, heavy beer, and flavored malt beverages per year.

598 [~~(57)~~] (62) (a) "Spirituous liquor" means liquor that is distilled.

599 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
600 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

601 [~~(58)~~] (a) "State label" means the official label designated by the commission affixed to
602 a liquor container sold in the state.]

603 [~~(b)~~] "State label" includes the department identification mark and inventory control
604 number.]

605 [~~(59)~~] (63) (a) "State store" means a facility for the sale of package liquor:

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

608 (b) "State store" does not apply to a:

- 609 (i) licensee;
- 610 (ii) permittee; or
- 611 (iii) package agency.

612 (64) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4,
613 Part 3, Limited Restaurant Licenses:

614 (a) "Storage area" means an area on the premises of a restaurant where a licensee
615 stores an alcoholic beverage or alcoholic product.

616 (b) "Store" means to place or maintain in a location an alcoholic beverage or alcoholic
617 product from which a person draws to prepare an alcoholic beverage for service to a patron of

618 the restaurant, except as provided in Subsection 32A-4-106(7)(e)(ii)(B) or
619 32A-4-307(7)(e)(ii)(B).

620 (65) "Sublicense" is as defined in Section 32A-4a-102.

621 ~~[(60)]~~ (66) "Supplier" means a person selling an alcoholic beverage to the department.

622 ~~[(61)]~~ (67) (a) "Tavern" means a business establishment that is:

623 (i) engaged primarily in the retail sale of beer to a public patron for consumption on
624 the establishment's premises; and

625 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

626 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
627 revenue of the sale of food, although food need not be sold in the establishment:

628 (i) a beer bar;

629 (ii) a parlor;

630 (iii) a lounge;

631 (iv) a cabaret; or

632 (v) a nightclub.

633 ~~[(62)]~~ (68) "Temporary domicile" means the principal place of abode within Utah of a
634 person who does not have a present intention to continue residency within Utah permanently
635 or indefinitely.

636 ~~[(63)]~~ (69) "Unsaleable liquor merchandise" means merchandise that:

637 (a) is unsaleable because the merchandise is:

638 (i) unlabeled;

639 (ii) leaky;

640 (iii) damaged;

641 (iv) difficult to open; or

642 (v) partly filled;

643 (b) is in a container:

644 (i) having faded labels or defective caps or corks;

645 (ii) in which the contents are:

- 646 (A) cloudy;
- 647 (B) spoiled; or
- 648 (C) chemically determined to be impure; or
- 649 (iii) that contains:
 - 650 (A) sediment; or
 - 651 (B) a foreign substance; or
 - 652 (c) is otherwise considered by the department as unfit for sale.

653 [~~(64)~~] "Visitor" means an individual that in accordance with Section 32A-5-107 holds
654 limited privileges in a private club by virtue of a visitor card.]

655 [~~(65)~~] (70) "Warehouser" means a person, other than a licensed manufacturer, engaged
656 in the importation for sale, storage, or distribution of liquor regardless of amount.

657 [~~(66)~~] (71) (a) "Wholesaler" means a person engaged in the importation for sale, or in
658 the sale of beer in wholesale or jobbing quantities to one or more retailers.

659 (b) Notwithstanding Subsection [~~(66)~~] (71)(a), "wholesaler" does not include a small
660 brewer selling beer manufactured by that brewer.

661 [~~(67)~~] (72) (a) "Wine" means an alcoholic beverage obtained by the fermentation of
662 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
663 not another ingredient is added.

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

666 Section 5. Section **32A-1-107** is amended to read:

667 **32A-1-107. Powers and duties of the commission.**

668 (1) The commission shall:

669 (a) act as a general policymaking body on the subject of alcoholic product control;

670 (b) adopt and issue policies, directives, rules, and procedures;

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

672 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates of~~

673 approval, and package agencies] a permit, license, certificate of approval, or package agency;

- 674 (ii) controlling liquor merchandise inventory including:
- 675 (A) listing and delisting [~~products~~] a product;
- 676 (B) the procedures for testing a new [~~products~~] product;
- 677 (C) purchasing policy;
- 678 (D) turnover requirements for a regularly coded [~~products~~] product to be continued;
- 679 and
- 680 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- 681 (iii) determining the location of a state [~~stores, package agencies, and outlets~~] store,
- 682 package agency, or outlet;
- 683 (d) decide within the limits and under the conditions imposed by this title, the number
- 684 and location of state stores, package agencies, and outlets established in the state;
- 685 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
- 686 certificates of approval, and package agencies for the purchase, sale, storage, service,
- 687 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:
- 688 (i) a package [~~agencies~~] agency;
- 689 (ii) a restaurant [~~licenses~~] license;
- 690 (iii) an airport lounge [~~licenses~~] license;
- 691 (iv) a limited restaurant [~~licenses~~] license;
- 692 (v) an on-premise banquet [~~licenses~~] license;
- 693 (vi) a resort license, under which four or more sublicenses may be included;
- 694 [~~(vi) private~~] (vii) a club [~~licenses~~] license;
- 695 [~~(vii)~~] (viii) an on-premise beer retailer [~~licenses~~] license;
- 696 [~~(viii)~~] (ix) a temporary special event beer [~~permits~~] permit;
- 697 [~~(ix)~~] (x) a special use [~~permits~~] permit;
- 698 [~~(x)~~] (xi) a single event [~~permits~~] permit;
- 699 [~~(xi)~~] (xii) a manufacturing [~~licenses~~] license;
- 700 [~~(xii)~~] (xiii) a liquor warehousing [~~licenses~~] license;
- 701 [~~(xiii)~~] (xiv) a beer wholesaling [~~licenses~~] license; and

- 702 [~~(xiv)~~] (xv) an out-of-state brewer [~~certificates~~] certificate of approval;
- 703 (f) fix prices at which [~~liquors are~~] liquor is sold that are the same at all state stores,
704 package agencies, and outlets;
- 705 (g) issue and distribute price lists showing the price to be paid by [~~purchasers~~] a
706 purchaser for each class, variety, or brand of liquor kept for sale by the department;
- 707 (h) (i) require the director to follow sound management principles; and
708 (ii) require periodic reporting from the director to ensure that:
709 (A) sound management principles are being followed; and
710 (B) policies established by the commission are being observed;
- 711 (i) (i) receive, consider, and act in a timely manner upon [~~all~~] the reports,
712 recommendations, and matters submitted by the director to the commission; and
713 (ii) do [~~all~~] the things necessary to support the department in properly performing the
714 department's duties and responsibilities;
- 715 (j) obtain temporarily and for special purposes the services of [~~experts and persons~~] an
716 expert or person engaged in the practice of a profession or who possess any needed skills,
717 talents, or abilities if:
718 (i) considered expedient; and
719 (ii) approved by the governor;
- 720 (k) prescribe the duties of a departmental [~~officials~~] official authorized to assist the
721 commission in issuing [~~permits, licenses, certificates of approval, and package agencies~~] a
722 permit, license, certificate of approval, or package agency under this title;
- 723 (l) prescribe, consistent with this title, the fees payable for:
724 (i) [~~permits, licenses, certificates of approval, and package agencies~~] a permit, license,
725 certificate of approval, or package agency issued under this title; or
726 (ii) anything done or permitted to be done under this title;
- 727 (m) prescribe the conduct, management, and equipment of [~~any~~] premises upon which
728 an alcoholic [~~beverages~~] beverage may be sold, consumed, served, or stored;
- 729 (n) make rules governing the credit terms of beer sales to retailers within the state;

730 (o) require that each of the following, where required in this title, display in a
 731 prominent place a sign in large letters stating: "Warning: Driving under the influence of
 732 alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.":

733 (i) a state store;

734 (ii) a permittee;

735 (iii) a licensee; and

736 (iv) a package agency; and

737 (p) subject to Subsection (4) and as provided in this title, impose fines against:

738 (i) a permittee, licensee, certificate holder, or package agent described in Subsection
 739 (1)(e); or

740 (ii) ~~[any]~~ an officer, employee, or agent of a permittee, licensee, certificate holder, or
 741 package agent described in Subsection (1)(p)(i).

742 (2) The power of the commission to do the following is plenary, except as otherwise
 743 provided by this title, and not subject to review:

744 (a) establish a state ~~[stores]~~ store;

745 (b) create a package ~~[agencies]~~ agency;

746 (c) grant authority to operate a package ~~[agencies]~~ agency; and

747 (d) grant or deny ~~[permits, licenses, and certificates]~~ a permit, license, or certificate of
 748 approval.

749 (3) The commission may appoint a qualified hearing ~~[examiners]~~ examiner to conduct
 750 ~~[any]~~ a suspension or revocation ~~[hearings]~~ hearing required by law.

751 (4) (a) In ~~[any]~~ a case ~~[where]~~ when the commission is given the power to suspend
 752 ~~[any]~~ a permit, license, certificate of approval, or package agency the commission may
 753 impose a fine in addition to or in lieu of suspension.

754 (b) ~~[Fines]~~ A fine imposed may not exceed \$25,000 in the aggregate for:

755 (i) ~~[any]~~ a single Notice of Agency Action; or

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

757 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines

758 for each violation.

759 Section 6. Section **32A-1-109** is amended to read:

760 **32A-1-109. Powers and duties of the director.**

761 Subject to the powers and responsibilities vested in the commission by this title the
762 director shall:

763 (1) prepare and propose to the commission general policies, directives, rules, and
764 procedures governing the administrative activities of the department, and may submit other
765 recommendations to the commission as the director considers in the interest of ~~[its]~~ the
766 commission's or the department's business;

767 (2) within the general policies, directives, rules, and procedures of the commission~~[-];~~

768 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the
769 administrative activities of the department's business; and ~~[promulgate]~~

770 (b) make internal department policies, directives, rules, and procedures relating to
771 department personnel matters, and the day-to-day operation of the department consistent with
772 those of the commission;

773 (3) (a) appoint or employ personnel as considered necessary in the administration of
774 this title ~~[and];~~

775 (b) prescribe the conditions of ~~[their]~~ employment~~[-, define their]~~ for the personnel
776 described in Subsection (3)(a);

777 (c) define the respective duties and powers~~[-, fix their]~~ for the personnel described in
778 Subsection (3)(a);

779 (d) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
780 Management Act, for the personnel described in Subsection (3)(a); and

781 (e) designate those employees required to give ~~[bonds]~~ a bond and specify the bond
782 amounts;

783 (4) establish and secure adherence to a system of reports, controls, and performance in
784 ~~[all]~~ matters relating to personnel, security, department property management, and operation of
785 ~~[department offices, warehouses, state stores, package agencies, and licensees];~~

- 786 (a) a department office;
 787 (b) a warehouse;
 788 (c) a state store;
 789 (d) a package agency; and
 790 (e) a licensee;
 791 (5) within the policies, directives, rules, and procedures approved by the commission
 792 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,
 793 transportation, and delivery of an alcoholic [~~products~~] product;
 794 (6) prepare for commission approval:
 795 (a) recommendations regarding the location, establishment, relocation, and closure of
 796 [~~state stores and package agencies~~] a state store or package agency;
 797 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation
 798 of [~~licenses and permits~~] a license or permit;
 799 (c) an annual [~~budgets~~] budget, proposed legislation, and reports as required by law
 800 and sound business principles;
 801 (d) plans for reorganizing divisions of the department and [~~their~~] the functions of the
 802 divisions;
 803 (e) manuals containing [~~all~~] commission and department policies, directives, rules,
 804 and procedures;
 805 (f) an inventory control system;
 806 (g) any other [~~reports and recommendations~~] report or recommendation as may be
 807 requested by the commission;
 808 (h) rules governing the credit terms of the sale of beer [~~sales~~] to a beer retailer
 809 [~~licensees~~] licensee;
 810 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered
 811 dispensing [~~systems~~] system;
 812 (j) rules governing the posting of a list of types and brand names of liquor [~~being~~]
 813 served through a calibrated metered dispensing [~~systems~~] system;

814 (k) price lists issued and distributed showing the price to be paid for each class,
 815 variety, or brand of liquor kept for sale at a state [stores, package agencies, and outlets] store,
 816 package agency, or outlet;

817 (l) directives prescribing the books of account kept by the department and by a state
 818 [stores, package agencies, and outlets;] store, package agency, or outlet; and

819 [(m) an official state label and the manner in which the label shall be affixed to every
 820 package of liquor sold under this title; and]

821 [(n) (m)] a policy prescribing the manner of giving and serving [notices] a notice
 822 required by this title or rules made under this title;

823 (7) make available through the department to any person, upon request, a copy of
 824 [any] a policy or directive [promulgated] made by the director;

825 [(8) adopt internal departmental policies, directives, rules, and procedures relating to
 826 department personnel matters and the day-to-day operation of the department that are
 827 consistent with those of the commission;]

828 [(9) (8)] keep a current copy of [the manuals containing] a manual that contains the
 829 rules and policies of the department and commission available for public inspection;

830 [(10) (9)] (a) after consultation with the governor, determine whether an alcoholic
 831 [products] product should not be sold, offered for sale, or otherwise furnished in an area of the
 832 state during a period of emergency that is proclaimed by the governor to exist in that area; and

833 (b) issue [any] a necessary public [announcements and directives] announcement or
 834 directive with respect to the determination described in Subsection [(10) (9)](a); and

835 [(11) (10)] perform other duties required by the commission and by law.

836 Section 7. Section **32A-1-115** is amended to read:

837 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
 838 **-- Distribution.**

839 (1) As used in this section:

840 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
 841 Account created in this section.

- 842 (b) "Alcohol-related offense" means:
- 843 (i) a violation of:
- 844 (A) Section 41-6a-502; or
- 845 (B) an ordinance that complies with the requirements of:
- 846 (I) Subsection 41-6a-510(1); or
- 847 (II) Section 76-5-207; or
- 848 (ii) an offense involving the:
- 849 (A) illegal sale of alcohol;
- 850 (B) illegal distribution of alcohol;
- 851 (C) illegal transportation of alcohol;
- 852 (D) illegal possession of alcohol; or
- 853 (E) illegal consumption of alcohol.
- 854 (c) "Annual conviction time period" means the time period that:
- 855 (i) begins on July 1 and ends on June 30; and
- 856 (ii) immediately precedes the fiscal year for which an appropriation under this section
- 857 is made.
- 858 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence
- 859 Coordinating Council created in Section 63M-7-301.
- 860 (e) "Municipality" means:
- 861 (i) a city; or
- 862 (ii) a town.
- 863 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
- 864 Beverage Enforcement and Treatment Restricted Account."
- 865 (b) The account shall be funded from:
- 866 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;
- 867 (ii) any appropriations made to the account by the Legislature; and
- 868 (iii) interest described in Subsection (2)(c).
- 869 (c) Interest earned on the account shall be deposited into the account.

870 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
871 revenues in the account shall be used for statewide public purposes including promoting the
872 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
873 alcohol consumption by minors by funding exclusively programs or projects related to
874 prevention, treatment, detection, prosecution, and control of violations of this title and other
875 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

876 (ii) The portion distributed under this section to counties may also be used for the
877 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
878 contributing factor.

879 (iii) ~~Any~~ A municipality or county entitled to receive ~~[funds]~~ monies shall use the
880 ~~[funds]~~ monies exclusively as required by this Subsection (2)(d).

881 (iv) The appropriations provided for under Subsection (3) are:

882 (A) intended to supplement the budget of the appropriate agencies of each
883 municipality and county within the state to enable the municipalities and counties to more
884 effectively fund the programs and projects described in this Subsection (2)(d); and

885 (B) not intended to replace ~~[funds]~~ monies that would otherwise be allocated for the
886 programs and projects in this Subsection (2)(d).

887 (3) (a) The revenues deposited into the account shall be distributed to municipalities
888 and counties:

889 (i) to the extent appropriated by the Legislature except that the Legislature shall
890 appropriate each fiscal year an amount equal to at least the amount deposited in the account in
891 accordance with Section 59-15-109; and

892 (ii) as provided in this Subsection (3).

893 (b) The amount appropriated from the account shall be distributed as follows:

894 (i) 25% to municipalities and counties based upon the percentage of the state
895 population residing in each municipality and county;

896 (ii) 30% to municipalities and counties based upon each municipality's and county's
897 percentage of the statewide convictions for all alcohol-related offenses;

898 (iii) 20% to municipalities and counties based upon the percentage of all state stores,
899 package agencies, liquor licensees, and beer licensees in the state that are located in each
900 municipality and county; and

901 (iv) 25% to the counties for confinement and treatment purposes authorized by this
902 section based upon the percentage of the state population located in each county.

903 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a
904 law enforcement agency may not receive monies under this section.

905 (ii) The State Tax Commission:

906 (A) may not distribute the monies the municipality would receive but for the
907 municipality not having a law enforcement agency to that municipality; and

908 (B) shall distribute the monies that the municipality would have received but for it not
909 having a law enforcement agency to the county in which the municipality is located for use by
910 the county in accordance with this section.

911 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds
912 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can
913 use the monies that the municipality is otherwise eligible to receive in accordance with this
914 section, the coordinating council may direct the State Tax Commission to distribute the money
915 to the municipality.

916 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax
917 Commission shall annually:

918 (a) for an annual conviction time period:

919 (i) multiply by two the total number of convictions in the state obtained during the
920 annual conviction time period for violation of:

921 (A) Section 41-6a-502; or

922 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
923 Section 76-5-207; and

924 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions
925 obtained during the annual conviction time period for all alcohol-related offenses other than

926 the alcohol-related offenses described in Subsection (4)(a)(i);
927 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
928 obtained in Subsection (4)(a); and
929 (c) multiply the amount calculated under Subsection (4)(b), by the number of
930 convictions obtained in each municipality and county during the annual conviction time
931 period for alcohol-related offenses.
932 (5) For purposes of this section:
933 (a) the number of state stores, package agencies, and licensees located within the
934 limits of each municipality and county:
935 (i) is the number determined by the department to be so located;
936 (ii) includes all:
937 (A) ~~[private clubs]~~ club licenses;
938 (B) restaurants;
939 (C) limited restaurants;
940 (D) on-premise banquet licenses;
941 (E) airport lounges;
942 (F) resort licenses;
943 ~~[(F)]~~ (G) package agencies; and
944 ~~[(G)]~~ (H) state stores; and
945 (iii) does not include on-premise beer retailer licensees;
946 (b) the number of state stores, package agencies, and licensees in a county consists
947 only of that number located within unincorporated areas of the county;
948 (c) population figures shall be determined according to the most current population
949 estimates prepared by the Utah Population Estimates Committee;
950 (d) a county's population figure for the 25% distribution to municipalities and counties
951 under Subsection (3)(b)(i) shall be determined only with reference to the population in the
952 unincorporated areas of the county;
953 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to

954 counties only shall be determined with reference to the total population in the county,
955 including that of municipalities;

956 (f) a conviction occurs in the municipality or county that actually prosecutes the
957 offense to judgment; and

958 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
959 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
960 offense.

961 (6) By not later than September 1 each year:

962 (a) the state court administrator shall certify to the State Tax Commission the number
963 of convictions obtained for alcohol-related offenses in each municipality or county in the state
964 during the annual conviction time period; and

965 (b) the coordinating council shall notify the State Tax Commission of any
966 municipality that does not have a law enforcement agency.

967 (7) By not later than December 1 of each year, the coordinating council shall notify
968 the State Tax Commission for the fiscal year of appropriation of:

969 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);

970 (b) any county that may receive a distribution allocated to a municipality described in
971 Subsection (3)(c)(ii);

972 (c) any municipality or county that may not receive a distribution because the
973 coordinating council has suspended the payment under Subsection (10)(a)(i); and

974 (d) any municipality or county that receives a distribution because the suspension of
975 payment has been cancelled under Subsection (10)(a)(ii).

976 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
977 Commission shall annually distribute to each municipality and county the portion of the
978 appropriation that the municipality or county is eligible to receive under this section, except
979 for any municipality or county that the coordinating council notifies the State Tax
980 Commission in accordance with Subsection (7) may not receive a distribution in that fiscal
981 year.

982 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and
983 counties in applying for distributions under this section.

984 (ii) The forms described in this Subsection (8) may require the submission of
985 information the State Tax Commission considers necessary to enable the State Tax
986 Commission to comply with this section.

987 (9) A municipality or county that receives any monies under this section during a
988 fiscal year shall by no later than October 1 following the fiscal year:

989 (a) report to the coordinating council:

990 (i) the programs or projects of the municipality or county that receive monies under
991 this section;

992 (ii) if the monies for programs or projects were exclusively used as required by
993 Subsection (2)(d);

994 (iii) indicators of whether the programs or projects that receive monies under this
995 section are effective; and

996 (iv) if [any] monies received under this section were not expended by the municipality
997 or county; and

998 (b) provide the coordinating council a statement signed by the chief executive officer
999 of the county or municipality attesting that the monies received under this section were used in
1000 addition to [any] monies appropriated or otherwise available for the county's or municipality's
1001 law enforcement and were not used to supplant those monies.

1002 (10) (a) The coordinating council may, by a majority vote:

1003 (i) suspend future payments under Subsection (8) to a municipality or county that:

1004 (A) does not file a report that meets the requirements of Subsection (9); or

1005 (B) the coordinating council finds does not use the monies as required by Subsection
1006 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and

1007 (ii) cancel a suspension under Subsection (10)(a)(i).

1008 (b) The State Tax Commission shall:

1009 (i) retain monies that a municipality or county does not receive under Subsection

1010 (10)(a); and

1011 (ii) notify the coordinating council of the balance of retained monies under this
1012 Subsection (10)(b) after the annual distribution under Subsection (8).

1013 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council
1014 shall award the balance of retained monies under Subsection (10)(b):

1015 (i) as prioritized by majority vote of the coordinating council; and

1016 (ii) as grants to:

1017 (A) a county;

1018 (B) a municipality;

1019 (C) the Department of Alcoholic Beverage Control;

1020 (D) the Department of Human Services;

1021 (E) the Department of Public Safety; or

1022 (F) the Utah State Office of Education.

1023 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
1024 council shall notify the State Tax Commission of [~~any~~] grants awarded under this Subsection
1025 (11).

1026 (c) The State Tax Commission shall make payments of [~~grants~~] a grant:

1027 (i) upon receiving notice as provided under Subsection (11)(b); and

1028 (ii) by not later than June 30 of the fiscal year of the appropriation.

1029 (d) An entity that receives a grant under this Subsection (11) shall use the grant
1030 monies exclusively for programs or projects described in Subsection (2)(d).

1031 Section 8. Section **32A-1-119** is amended to read:

1032 **32A-1-119. Disciplinary proceedings -- Procedure.**

1033 (1) As used in Subsection (4), "final adjudication" means an adjudication for which a
1034 final [~~unappealable~~] judgment or order is issued[;] that:

1035 (a) is not appealed, and the time to appeal the judgment has expired; or

1036 (b) is appealed, and is affirmed, in whole or in part, on appeal.

1037 (2) (a) Subject to Section 32A-1-119.5, the following may conduct an adjudicative

1038 proceeding to inquire into a matter necessary and proper for the administration of this title and
1039 rules adopted under this title:

1040 (i) the commission;

1041 (ii) a hearing examiner appointed by the commission for the purposes provided in

1042 Subsection 32A-1-107(3);

1043 (iii) the director; and

1044 (iv) the department.

1045 (b) Except as provided in this section or Section 32A-3-106, the following shall

1046 comply with the procedures and requirements of Title 63G, Chapter 4, Administrative

1047 Procedures Act, in an adjudicative proceeding:

1048 (i) the commission;

1049 (ii) a hearing examiner appointed by the commission;

1050 (iii) the director; and

1051 (iv) the department.

1052 (c) Except where otherwise provided by law, an adjudicative proceeding before the

1053 commission or a hearing examiner appointed by the commission shall be:

1054 (i) video or audio recorded; and

1055 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,

1056 Open and Public Meetings Act.

1057 (d) A person listed in Subsection (2)(a) shall conduct an adjudicative proceeding

1058 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State

1059 Personnel Management Act.

1060 (e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be

1061 conducted in accordance with rules, policies, and procedures made by the commission,

1062 director, or department.

1063 (3) (a) Subject to Section 32A-1-119.5, a disciplinary proceeding shall be conducted

1064 under the authority of the commission, which is responsible for rendering a final decision and

1065 order on a disciplinary matter.

1066 (b) (i) Nothing in this section precludes the commission from appointing a necessary
1067 officer, including a hearing examiner, from within or without the department, to administer the
1068 disciplinary proceeding process.

1069 (ii) A hearing examiner appointed by the commission:

1070 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

1071 (B) shall submit to the commission a report including:

1072 (I) findings of fact determined on the basis of a preponderance of the evidence
1073 presented at the hearing;

1074 (II) conclusions of law; and

1075 (III) recommendations.

1076 (c) Nothing in this section precludes the commission, after the commission renders its
1077 final decision and order, from having the director prepare, issue, and cause to be served on the
1078 parties the final written order on behalf of the commission.

1079 (4) Subject to Section 32A-1-119.5:

1080 (a) The department may initiate a disciplinary proceeding described in Subsection
1081 (4)(b) if the department receives:

1082 (i) a report from a government agency, peace officer, examiner, or investigator
1083 alleging that a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) violated
1084 this title or the rules of the commission;

1085 (ii) a final adjudication of criminal liability against a person listed in Subsections
1086 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based on an alleged violation of this title; or

1087 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
1088 Liability, against a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based
1089 on an alleged violation of this title.

1090 (b) The department may initiate a disciplinary proceeding if the department receives
1091 an item listed in Subsection (4)(a) to determine:

1092 (i) whether a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii)
1093 violated this title or rules of the commission; and

- 1094 (ii) if a violation is found, the appropriate sanction to be imposed.
- 1095 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:
- 1096 (i) if required by law;
- 1097 (ii) before revoking or suspending a permit, license, or certificate of approval issued
- 1098 under this title; or
- 1099 (iii) before imposing a fine against a person listed in Subsections
- 1100 32A-1-105[(17)](18)(a)(i) through (vii).
- 1101 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary
- 1102 proceeding hearing after receiving proper notice is an admission of the charged violation.
- 1103 (c) The validity of a disciplinary proceeding is not affected by the failure of a person
- 1104 to attend or remain in attendance.
- 1105 (d) The commission or an appointed hearing examiner shall preside over a disciplinary
- 1106 proceeding hearing.
- 1107 (e) A disciplinary proceeding hearing may be closed only after the commission or
- 1108 hearing examiner makes a written finding that the public interest in an open hearing is clearly
- 1109 outweighed by factors enumerated in the closure order.
- 1110 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
- 1111 hearing may:
- 1112 (A) administer oaths or affirmations;
- 1113 (B) take evidence;
- 1114 (C) take a deposition within or without this state; and
- 1115 (D) require by subpoena from a place within this state:
- 1116 (I) the testimony of a person at a hearing; and
- 1117 (II) the production of a book, record, paper, contract, agreement, document, or other
- 1118 evidence considered relevant to the inquiry.
- 1119 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
- 1120 produce a book, paper, document, or tangible thing as required in the subpoena.
- 1121 (iii) A witness subpoenaed or called to testify or produce evidence who claims a

1122 privilege against self-incrimination may not be compelled to testify, but the commission or the
1123 hearing examiner shall file a written report with the county attorney or district attorney in the
1124 jurisdiction where the privilege is claimed or where the witness resides setting forth the
1125 circumstance of the claimed privilege.

1126 (iv) (A) A person is not excused from obeying a subpoena without just cause.

1127 (B) A district court within the judicial district in which a person alleged to be guilty of
1128 willful contempt of court or refusal to obey a subpoena is found or resides, upon application
1129 by the party issuing the subpoena, may issue an order requiring the person to:

1130 (I) appear before the issuing party; and

1131 (II) (Aa) produce documentary evidence if so ordered; or

1132 (Bb) give evidence regarding the matter in question.

1133 (C) Failure to obey an order of the court may be punished by the court as contempt.

1134 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing
1135 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

1136 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
1137 recommend a penalty more severe than that initially sought by the department in the notice of
1138 agency action.

1139 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
1140 shall be served upon the respective parties.

1141 (iv) The respondent and the department shall be given reasonable opportunity to file a
1142 written objection to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
1143 before final commission action.

1144 (h) In a case heard by the commission, it shall issue its final decision and order in
1145 accordance with Subsection (3).

1146 (6) (a) The commission shall:

1147 (i) render a final decision and order on a disciplinary action; and

1148 (ii) cause its final order to be prepared in writing, issued, and served on all parties.

1149 (b) An order of the commission is [~~considered~~] final on the date the order [~~becomes~~

1150 ~~effective]~~ is issued.

1151 (c) If the commission is satisfied that a person listed in Subsections
1152 32A-1-105~~[(17)]~~(18)(a)(i) through (vii) violated this title or the commission's rules, in
1153 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

1154 (i) suspend or revoke the permit, license, or certificate of approval;

1155 (ii) impose a fine against a person listed in Subsections 32A-1-105~~[(17)]~~(18)(a)(i)
1156 through (vii);

1157 (iii) assess the administrative costs of a disciplinary proceeding to the permittee, the
1158 licensee, or certificate holder; or

1159 (iv) take a combination of actions described in Subsections (6)(c)(i) through (iii).

1160 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
1161 32A-1-107(1)(p) and (4).

1162 (e) (i) If a permit or license is suspended under this Subsection (6), the permittee or
1163 licensee shall prominently post a sign provided by the department:

1164 (A) during the suspension; and

1165 (B) at the entrance of the premises of the permittee or licensee.

1166 (ii) The sign required by this Subsection (6)(e) shall:

1167 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
1168 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
1169 sold, served, furnished, or consumed on these premises during the period of suspension."; and

1170 (B) include the dates of the suspension period.

1171 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
1172 to be posted under this Subsection (6)(e) during the suspension period.

1173 (f) If a permit or license is revoked, the commission may order the revocation of a
1174 compliance bond posted by the permittee or licensee.

1175 (g) A permittee or licensee whose permit or license is revoked may not reapply for a
1176 permit or license under this title for three years from the date on which the permit or license is
1177 revoked.

1178 (h) The commission shall transfer all costs assessed into the General Fund in
1179 accordance with Section 32A-1-113.

1180 (7) Subject to Section 32A-1-119.5:

1181 (a) In addition to an action taken against a permittee, licensee, or certificate holder
1182 under this section, the department may initiate disciplinary action against an officer,
1183 employee, or agent of a permittee, licensee, or certificate holder.

1184 (b) If an officer, employee, or agent is found to have violated this title, the commission
1185 may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing,
1186 wholesaling, warehousing, or handling an alcoholic beverage in the course of acting as an
1187 officer, employee, or agent with a permittee, licensee, or certificate holder under this title for a
1188 period determined by the commission.

1189 (8) Subject to Section 32A-1-119.5:

1190 (a) The department may initiate a disciplinary proceeding for an alleged violation of
1191 this title or the rules of the commission against:

1192 (i) a manufacturer, supplier, or importer of an alcoholic beverage; or

1193 (ii) an officer, employee, agent, or representative of a person listed in Subsection
1194 (8)(a)(i).

1195 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
1196 commission may, in addition to other penalties prescribed by this title, order:

1197 (A) the removal of the manufacturer's, supplier's, or importer's one or more products
1198 from the department's sales list; and

1199 (B) a suspension of the department's purchase of the one or more products described
1200 in Subsection (8)(b)(i)(A) for a period determined by the commission.

1201 (ii) The commission may take the action described in Subsection (8)(b)(i) if:

1202 (A) a manufacturer, supplier, or importer of liquor, wine, heavy beer, or a flavored malt
1203 beverage, or its officer, employee, agent, or representative violates this title; and

1204 (B) the manufacturer, supplier, or importer:

1205 (I) directly commits the violation; or

1206 (II) solicits, requests, commands, encourages, or intentionally aids another to engage
1207 in the violation.

1208 (9) Subject to Section 32A-1-119.5:

1209 (a) The department may initiate a disciplinary proceeding against a brewer holding a
1210 certificate of approval under Section 32A-8-101 for an alleged violation of this title or the
1211 rules of the commission.

1212 (b) If the commission makes a finding that the brewer holding a certificate of approval
1213 violates this title or rules of the commission, the commission may take an action against the
1214 brewer holding a certificate of approval that the commission could take against a licensee
1215 including:

1216 (i) suspension or revocation of the certificate of approval; and

1217 (ii) imposition of a fine.

1218 (10) (a) An adjudicative proceeding under this title, including a disciplinary
1219 proceeding, is a civil action, notwithstanding whether at issue in the adjudicative proceeding
1220 is a violation of statute that can be prosecuted criminally.

1221 (b) Unless specifically adopted in this title, a procedure or principal that is applicable
1222 to a criminal proceeding does not apply to an adjudicative proceeding permitted under this
1223 title including:

1224 (i) Title 76, Chapter 1, General Provisions;

1225 (ii) Title 76, Chapter 2, Principles of Criminal Responsibility;

1226 (iii) Title 76, Chapter 3, Punishments; and

1227 (iv) Title 76, Chapter 4, Inchoate Offenses.

1228 (c) (i) The burden of proof in an adjudicative proceeding under this title is by a
1229 preponderance of the evidence.

1230 (ii) If the subject of an adjudicative proceeding under this title asserts an affirmative
1231 defense, the subject has the burden of proof to establish the affirmative defense by the
1232 preponderance of the evidence.

1233 (d) In an adjudicative proceeding under this title, to find a violation of this title the

1234 commission:

1235 (i) is required to determine whether the conduct that constitutes the violation occurred;

1236 and

1237 (ii) is not required to make a finding of knowledge or intent unless knowledge or

1238 intent is expressly made an element of the violation by statute.

1239 [~~(10)~~] (11) (a) If a respondent requests a disciplinary proceeding hearing, the hearing
1240 held by the commission or a hearing examiner appointed by the commission shall proceed
1241 formally in accordance with Sections 63G-4-204 through 63G-4-209 in a case where:

1242 (i) the alleged violation poses, or potentially poses, a grave risk to public safety,
1243 health, and welfare;

1244 (ii) the alleged violation involves:

1245 (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;

1246 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
1247 Entertainment Act;

1248 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
1249 of the respondent;

1250 (D) interfering or refusing to cooperate with:

1251 (I) an authorized official of the department or the state in the discharge of the official's
1252 duties in relation to the enforcement of this title; or

1253 (II) a peace officer in the discharge of the peace officer's duties in relation to the
1254 enforcement of this title;

1255 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

1256 (F) unlawful importation of an alcoholic product; or

1257 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
1258 32A-12-601(2), to a person other than the department or a military installation, except to the
1259 extent permitted by this title; or

1260 (iii) the department determines to seek in a disciplinary proceeding hearing:

1261 (A) an administrative fine exceeding \$3,000;

1262 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

1263 or

1264 (C) a revocation of a license, permit, or certificate of approval.

1265 (b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall
1266 proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by
1267 the commission in accordance with Subsection (11)(c).

1268 [~~(b)~~] (c) The commission shall make rules in accordance with Title 63G, Chapter 3,
1269 Utah Administrative Rulemaking Act, to provide a procedure to implement this Subsection
1270 [~~(10)~~] (11).

1271 (12) Notwithstanding the other provisions of this title, the commission may not order a
1272 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1273 ordered on the basis of a violation:

1274 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1275 (b) if the violation is first investigated by a law enforcement officer, as defined in
1276 Section 53-13-103, who has not received training regarding the requirements of this title
1277 related to responsible alcoholic beverage sale or service.

1278 Section 9. Section **32A-1-119.5** is amended to read:

1279 **32A-1-119.5. Timing of reporting violations.**

1280 (1) As used in this section:

1281 (a) "Department compliance officer" means an individual who is:

1282 (i) an auditor or inspector; and

1283 (ii) employed by the department.

1284 (b) "Nondepartment enforcement agency" means an agency that:

1285 (i) (A) is a state agency other than the department; or

1286 (B) is an agency of a county, city, or town; and

1287 (ii) has a responsibility, as provided in another provision of this title, to enforce one or
1288 more provisions of this title.

1289 (c) "Nondepartment enforcement officer" means an individual who is:

- 1290 (i) a peace officer, examiner, or investigator; and
1291 (ii) employed by an agency described in Subsection (1)(b).
- 1292 (2) A disciplinary proceeding may not be initiated or maintained by the commission or
1293 department on the basis, in whole or in part, of a violation of this title unless a person listed in
1294 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) against whom the violation is alleged is
1295 notified by the department of the violation in accordance with this section.
- 1296 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer
1297 may not report a violation of this title to the department more than eight business days after
1298 the day on which a nondepartment enforcement officer or agency completes an investigation
1299 that finds a violation of this title.
- 1300 (b) If the commission or department wants the right to initiate or maintain a
1301 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
1302 report described in Subsection (3)(a), the department shall notify a person listed in
1303 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this
1304 title:
- 1305 (i) by no later than eight business days of the day on which the department receives
1306 the report described in Subsection (3)(a); and
- 1307 (ii) that the commission or department may initiate or maintain a disciplinary
1308 proceeding on the basis, in whole or in part, of the violation.
- 1309 (4) If the commission or department wants the right to initiate or maintain a
1310 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by
1311 report of a department compliance officer, the department shall notify a person listed in
1312 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this
1313 title:
- 1314 (a) by no later than eight business days of the day on which the department
1315 compliance officer completes an investigation that finds a violation of this title; and
- 1316 (b) that the commission or department may initiate or maintain a disciplinary
1317 proceeding on the basis, in whole or in part, of the violation.

1318 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to
1319 a person listed in Subsection 32A-1-105~~(+15)~~(18)(a)(vii).

1320 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after
1321 the oral notification the department provides written notification.

1322 (b) The written notification described in Subsection (6)(a) may be sent outside the
1323 time periods required by this section.

1324 (7) The department shall maintain a record of a notification required by Subsection
1325 (2), (3)(b), or (4) that includes:

1326 (a) the name of the person notified; and

1327 (b) the date of the notification.

1328 Section 10. Section **32A-1-304.5** is enacted to read:

1329 **32A-1-304.5. Verification of proof of age by certain club licensees.**

1330 (1) For purposes of this section, "applicable club licensee" means the following as
1331 defined in Section 32A-5-101:

1332 (a) a dining club licensee; or

1333 (b) a social club licensee.

1334 (2) Notwithstanding any other provision of this part, an applicable club licensee shall
1335 require that a person authorized to sell or otherwise handle an alcoholic beverage or alcoholic
1336 product under the applicable club license verify proof of age as provided in this section.

1337 (3) A person described in Subsection (2) is required to verify proof of age under this
1338 section before an individual who appears to be 35 years of age or younger:

1339 (a) gains admittance to the premises of a social club licensee; or

1340 (b) procures an alcoholic beverage or alcoholic product on the premises of a dining
1341 club licensee.

1342 (4) To comply with Subsection (3), a person shall:

1343 (a) request the individual present proof of age; and

1344 (b) (i) verify the validity of the proof of age electronically under the verification
1345 program created in Subsection (5); or

1346 (ii) if the proof of age cannot be electronically verified as provided in Subsection
1347 (4)(b)(i), request that the individual comply with a process established by the commission by
1348 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1349 (5) The commission shall establish by rule made in accordance with Title 63G,
1350 Chapter 3, Utah Administrative Rulemaking Act, an electronic verification program that
1351 includes the following:

1352 (a) the specifications for the technology used by the applicable club licensee to
1353 electronically verify proof of age, including that the technology display to the person described
1354 in Subsection (2) no more than the following for the individual who presents the proof of age:

1355 (i) the name;

1356 (ii) the age;

1357 (iii) the number assigned to the individual's proof of age by the issuing authority;

1358 (iv) the birth date;

1359 (v) the gender; and

1360 (vi) the status and expiration date of the individual's proof of age; and

1361 (b) the security measures that must be used by an applicable club licensee to ensure
1362 that information obtained under this section is:

1363 (i) used by the applicable club licensee only for purposes of verifying proof of age in
1364 accordance with this section; and

1365 (ii) retained by the applicable club licensee for seven days after the day on which the
1366 applicable club licensee obtains the information.

1367 (6) (a) An applicable club licensee may not disclose information obtained under this
1368 section except as provided under this title.

1369 (b) Information obtained under this section is considered a record for any purpose
1370 under Section 32A-5-107.

1371 Section 11. Section **32A-1-603** is amended to read:

1372 **32A-1-603. Sexually oriented entertainer.**

1373 (1) Subject to the restrictions of this section, live entertainment is permitted on a

1374 premises or at an event regulated by the commission.

1375 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person
1376 to:

1377 (a) appear or perform in a state of nudity;

1378 (b) perform or simulate an act of:

1379 (i) sexual intercourse;

1380 (ii) masturbation;

1381 (iii) sodomy;

1382 (iv) bestiality;

1383 (v) oral copulation;

1384 (vi) flagellation; or

1385 (vii) a sexual act that is prohibited by Utah law; or

1386 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.

1387 (3) A sexually oriented entertainer may perform in a state of seminudity:

1388 (a) only in:

1389 (i) a tavern; or [class D private club; and]

1390 (ii) a social club license premises; and

1391 (b) only if:

1392 (i) all windows, doors, and other apertures to the premises are darkened or otherwise
1393 constructed to prevent anyone outside the premises from seeing the performance; and

1394 (ii) the outside entrance doors of the premises remain unlocked.

1395 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
1396 performance area that is:

1397 (a) approved by the commission in accordance with rules made by the commission in
1398 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1399 (b) configured so as to preclude a patron from:

1400 (i) touching the sexually oriented entertainer; or

1401 (ii) placing any money or object on or within the costume or the person of the sexually

- 1402 oriented entertainer; and
- 1403 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 1404 patron.
- 1405 (5) A sexually oriented entertainer may not touch a patron:
- 1406 (a) during the sexually oriented entertainer's performance; or
- 1407 (b) while the sexually oriented entertainer is dressed in performance attire or costume.
- 1408 (6) A sexually oriented entertainer, while in the portion of the premises used by
- 1409 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
- 1410 entertainer's performance attire or costume from the top of the breast to the knee.
- 1411 (7) A patron may not be on the stage or in the performance area while a sexually
- 1412 oriented entertainer is appearing or performing on the stage or in the performance area.
- 1413 (8) A patron may not:
- 1414 (a) touch a sexually oriented entertainer:
- 1415 (i) during the sexually oriented entertainer's performance; or
- 1416 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;
- 1417 or
- 1418 (b) place money or any other object on or within the costume or the person of the
- 1419 sexually oriented entertainer.
- 1420 (9) A minor may not be on a premises described in Subsection (3) [~~when a sexually~~
- 1421 ~~oriented entertainer is performing on the premises~~].
- 1422 (10) A person who appears or performs for the entertainment of patrons on a premises
- 1423 or at an event regulated by the commission that is not a tavern or [~~class D private club~~] social
- 1424 club licensee:
- 1425 (a) may not appear or perform in a state of nudity or a state of seminudity; and
- 1426 (b) may appear or perform in opaque clothing that completely covers the person's
- 1427 genitals, pubic area, and anus if the covering:
- 1428 (i) is not less than the following at its widest point:
- 1429 (A) four inches coverage width in the front of the human body; and

- 1430 (B) five inches coverage width in the back of the human body;
- 1431 (ii) does not taper to less than one inch wide at the narrowest point; and
- 1432 (iii) if covering a female, completely covers the breast below the top of the areola.

1433 Section 12. Section **32A-2-103** is amended to read:

1434 **32A-2-103. Operational restrictions.**

1435 (1) (a) Liquor may not be sold from a state store except in a sealed package. [~~The~~]

1436 (b) A sealed package may not be opened on the premises of [~~any~~] a state store.

1437 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow
1438 to be consumed by any person [~~any~~] an alcoholic beverage on the premises of a state store.

1439 (b) Violation of this Subsection (2) is a class B misdemeanor.

1440 [~~(3) All liquor sold shall be in packages that are properly marked and labeled in~~
1441 ~~accordance with the rules adopted under this title.]~~

1442 [~~(4)~~] (3) Liquor may not be sold except at prices fixed by the commission.

1443 [~~(5)~~] (4) Liquor may not be sold, delivered, or furnished to [~~any~~] a:

1444 (a) minor;

1445 (b) person actually, apparently, or obviously intoxicated;

1446 (c) known habitual drunkard; or

1447 (d) known interdicted person.

1448 [~~(6)~~] (5) Sale or delivery of liquor may not be made on or from the premises of [~~any~~] a
1449 state store, nor may [~~any~~] a state store be kept open for the sale of liquor:

1450 (a) on Sunday;

1451 (b) on [~~any~~] a state or federal legal holiday; or

1452 [~~(c) on any day on which any regular general election, regular primary election, or~~
1453 ~~statewide special election is held;]~~

1454 [~~(d) on any day on which any municipal, local district, special service district, or~~
1455 ~~school election is held, but only within the boundaries of the municipality, local district,~~
1456 ~~special service district, or school district holding the election and only if the municipality,~~
1457 ~~local district, special service district or school district in which the election is being held~~

1458 notifies the department at least 30 days prior to the date of the election; or]

1459 ~~[(e)]~~ (c) except on days and during hours as the commission may direct by rule or
 1460 order.

1461 ~~[(7) Each]~~ (6) A state store shall display in a prominent place in the store a sign in
 1462 large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious
 1463 crime that is prosecuted aggressively in Utah."

1464 ~~[(8)]~~ (7) (a) A minor may not be admitted into, or be on the premises of a state store
 1465 unless accompanied by a person who is:

- 1466 (i) 21 years of age or older; and
- 1467 (ii) the minor's parent, legal guardian, or spouse.

1468 (b) ~~[Any]~~ A state store employee that has reason to believe that a person who is on the
 1469 premises of a state store is under the age of 21 and is not accompanied by a person described
 1470 in Subsection ~~[(8)]~~ (7)(a) may:

- 1471 (i) ask the suspected minor for proof of age;
- 1472 (ii) ask the person who ~~[accompanied]~~ accompanies the suspected minor for proof of
 1473 age; and
- 1474 (iii) ask the suspected minor or the person who ~~[accompanied]~~ accompanies the
 1475 suspected minor for proof of parental, guardianship, or spousal relationship.

1476 (c) ~~[Any]~~ A state store employee shall refuse to sell liquor to the suspected minor and
 1477 to the person who ~~[accompanied]~~ accompanies the suspected minor into the state store if ~~[they~~
 1478 fail] the suspected minor or person fails to provide ~~[any of the]~~ information specified in
 1479 Subsection ~~[(8)]~~ (7)(b).

1480 (d) ~~[Any]~~ A state store employee shall require ~~[the]~~ a suspected minor and the person
 1481 who ~~[accompanied]~~ accompanies the suspected minor into the state store to immediately leave
 1482 the premises of the state store if ~~[they fail]~~ the suspected minor or person fails to provide ~~[any~~
 1483 of the] information specified in Subsection ~~[(8)]~~ (7)(b).

1484 Section 13. Section **32A-3-106** is amended to read:

1485 **32A-3-106. Operational restrictions.**

1486 (1) (a) A package agency may not be operated until a package agency agreement has
1487 been entered into by the package agent and the department.

1488 (b) The agreement shall state the conditions of operation by which the package agent
1489 and the department are bound.

1490 (c) If the package agent violates the conditions, terms, or covenants contained in the
1491 agreement or violates any provisions of this title, the department may take whatever action
1492 against the agent that is allowed by the package agency agreement.

1493 (d) Actions against the package agent are governed solely by the agreement and may
1494 include suspension or revocation of the agency.

1495 (2) (a) A package agency may not purchase liquor from any person except from the
1496 department.

1497 (b) At the discretion of the department, liquor may be provided by the department to a
1498 package agency for sale on consignment.

1499 (3) The department may pay or otherwise remunerate a package agent on any basis
1500 including sales or volume of business done by the agency.

1501 (4) Liquor may not be sold from any package agency except in a sealed package. The
1502 package may not be opened on the premises of a package agency.

1503 [~~5~~] All liquor sold shall be in packages that are properly marked and labeled in
1504 accordance with the rules adopted under this title.]

1505 [~~6~~] 5 A package agency may not display liquor or price lists in windows or
1506 showcases visible to passersby.

1507 [~~7~~] 6 (a) An officer, agent, clerk, or employee of a package agency may not
1508 consume or allow to be consumed by any person any alcoholic beverage on the premises of a
1509 package agency.

1510 (b) Violation of this Subsection [~~7~~] 6 is a class B misdemeanor.

1511 [~~8~~] 7 Liquor may not be sold except at prices fixed by the commission.

1512 [~~9~~] 8 Liquor may not be sold, delivered, or furnished to any:

1513 (a) minor;

1514 (b) person actually, apparently, or obviously intoxicated;

1515 (c) known habitual drunkard; or

1516 (d) known interdicted person.

1517 ~~[(10)]~~ (9) (a) Subject to ~~[Subsection (10)(b)]~~ the other provisions of this Subsection

1518 (9), sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a package

1519 agency nor may ~~[any]~~ a package agency be kept open for the sale of liquor:

1520 (i) (A) on Sunday; or

1521 (B) on a state or federal legal holiday; and

1522 (ii) except on days and during hours as the commission may direct by rule or order.

1523 (b) The restrictions in Subsection ~~[(10)]~~ (9)(a)(i) govern unless:

1524 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing

1525 Licenses;

1526 (ii) the winery licensed under Chapter 8, Manufacturing Licenses, holds:

1527 (A) a restaurant liquor license under Chapter 4, Part 1, Restaurant Liquor Licenses; or

1528 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;

1529 (iii) the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii) is located at the winery;

1530 (iv) the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii) sells wines produced at the

1531 winery;

1532 (v) the winery described in Subsection ~~[(10)]~~ (9)(b)(i):

1533 (A) owns the restaurant; or

1534 (B) operates the restaurant;

1535 (vi) the package agency only sells wine produced at the winery; and

1536 (vii) the package agency's days and hours of sale are the same as the days and hours of

1537 sale at the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii).

1538 ~~[(c) (i) In addition to the requirements of Subsection (10)(a), the sale or delivery of~~

1539 ~~liquor may not be made on or from the premises of a package agency described in Subsection~~

1540 ~~(10)(c)(ii) and a package agency described in Subsection (10)(c)(ii) may not be open for the~~

1541 ~~sale of liquor until after the polls are closed.]~~

1542 ~~[(A) on a day on which is held:]~~
1543 ~~[(F) a regular general election;]~~
1544 ~~[(H) a regular primary election; or]~~
1545 ~~[(HH) a statewide special election; or]~~
1546 ~~[(B) on a day on which is held a municipal, local district, special service district, or~~
1547 ~~school election if:]~~
1548 ~~[(I) the package agency is within the boundaries of the municipality, local district,~~
1549 ~~special service district, or school district holding the election; and]~~
1550 ~~[(H) the municipality, local district, special service district, or school district in which~~
1551 ~~the election is held notifies the department at least 30 days before the day on which the~~
1552 ~~election is held:]~~
1553 ~~[(ii) This Subsection (10)(c) applies to a package agency that contracts with the~~
1554 ~~department to sell liquor in a manner similar to a state store, whether or not the operator of the~~
1555 ~~package agency has a source of income that is not from the sale of liquor.]~~
1556 ~~[(iii) The commission may by rule made in accordance with Title 63G, Chapter 3,~~
1557 ~~Utah Administrative Rulemaking Act, define what constitutes a package agency that sells~~
1558 ~~liquor "in a manner similar to a state store."]~~
1559 (c) (i) Subsection (9)(a)(i) does not apply to a package agency held by a resort licensee
1560 if the package agency that contracts with the department to sell liquor does not sell liquor in a
1561 manner similar to a state store.
1562 (ii) The commission may by rule made in accordance with Title 63G, Chapter 3, Utah
1563 Administrative Rulemaking Act, define what constitutes a package agency that sells liquor "in
1564 a manner similar to a state store."
1565 ~~[(H)]~~ (10) The package agency certificate issued by the commission shall be
1566 permanently posted in a conspicuous place in the package agency.
1567 ~~[(H2) Each]~~ (11) A package agent shall display in a prominent place in the package
1568 agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1569 drugs is a serious crime that is prosecuted aggressively in Utah."

1570 [~~(13)~~] (12) (a) A package agency may not close or cease operation for a period longer
1571 than 72 hours, unless:

1572 (i) the package agency notifies the department in writing at least seven days before the
1573 closing; and

1574 (ii) the closure or cessation of operation is first approved by the department.

1575 (b) Notwithstanding Subsection [~~(13)~~] (12)(a), in the case of emergency closure,
1576 immediate notice of closure shall be made to the department by telephone.

1577 (c) (i) The department may authorize a closure or cessation of operation for a period
1578 not to exceed 60 days.

1579 (ii) The department may extend the initial period an additional 30 days upon written
1580 request of the package agency and upon a showing of good cause.

1581 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1582 commission approval.

1583 (d) The notice required by Subsection [~~(13)~~] (12)(a) shall include:

1584 (i) the dates of closure or cessation of operation;

1585 (ii) the reason for the closure or cessation of operation; and

1586 (iii) the date on which the agency will reopen or resume operation.

1587 (e) Failure of the agency to provide notice and to obtain department authorization
1588 prior to closure or cessation of operation shall result in an automatic termination of the
1589 package agency contract effective immediately.

1590 (f) Failure of the agency to reopen or resume operation by the approved date shall
1591 result in an automatic termination of the package agency contract effective on that date.

1592 [~~(14)~~] (13) Liquor may not be stored or sold in any place other than as designated in
1593 the package agent's application, unless the package agent first applies for and receives
1594 approval from the department for a change of location within the package agency premises.

1595 [~~(15)~~] (14) (a) Except to the extent authorized by commission rule, a minor may not be
1596 admitted into, or be on the premises of a package agency unless accompanied by a person who
1597 is:

1598 (i) 21 years of age or older; and
1599 (ii) the minor's parent, legal guardian, or spouse.
1600 (b) ~~[Any]~~ A package agent or employee of the package agency that has reason to
1601 believe that a person who is on the premises of a package agency store is under the age of 21
1602 and is not accompanied by a person described in Subsection ~~[(15)]~~ (14)(a) may:

1603 (i) ask the suspected minor for proof of age;
1604 (ii) ask the person who ~~[accompanied]~~ accompanies the suspected minor for proof of
1605 age; and

1606 (iii) ask the suspected minor or the person who ~~[accompanied]~~ accompanies the
1607 suspected minor for proof of parental, guardianship, or spousal relationship.

1608 (c) ~~[Any]~~ A package agent or employee of a package agency shall refuse to sell liquor
1609 to the suspected minor and to the person who ~~[accompanied]~~ accompanies the suspected
1610 minor into the package agency if ~~[they fail]~~ the minor or person fails to provide any ~~[of the]~~
1611 information specified in Subsection ~~[(15)]~~ (14)(b).

1612 (d) ~~[Any]~~ A package agent or employee of a package agency shall require the
1613 suspected minor and the person who ~~[accompanied]~~ accompanies the suspected minor into the
1614 package agency to immediately leave the premises of the package agency if ~~[they fail]~~ the
1615 minor or person fails to provide ~~[any of the]~~ information specified in Subsection ~~[(15)]~~
1616 (14)(b).

1617 ~~[(16)]~~ (15) A package agency may not transfer its operations from one location to
1618 another location without prior written approval of the commission.

1619 ~~[(17)]~~ (16) (a) A person, having been granted a package agency, may not sell, transfer,
1620 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
1621 other person, whether for monetary gain or not.

1622 (b) A package agency has no monetary value for the purpose of any type of
1623 disposition.

1624 Section 14. Section **32A-4-101** is amended to read:

1625 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1626 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it
1627 shall first obtain a license from the commission as provided in this part.

1628 (2) The commission may [~~issue~~] grant restaurant liquor licenses for the purpose of
1629 establishing restaurant liquor outlets at places and in numbers it considers proper for the
1630 storage, sale, and consumption of liquor on premises operated as public restaurants.

1631 (3) (a) Subject to the other provisions of this Subsection (3) and Subsection
1632 32A-4a-201(2), the total number of restaurant liquor licenses may not at any time aggregate
1633 more than that number determined by dividing the population of the state by 5,200.

1634 (b) For purposes of this Subsection (3), population shall be determined by:

1635 (i) the most recent United States decennial or special census; or

1636 (ii) another population determination made by the United States or state governments.

1637 (c) (i) The commission may [~~issue~~] grant seasonal restaurant liquor licenses
1638 established in areas the commission considers necessary.

1639 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive
1640 months.

1641 (iii) A restaurant liquor license [~~issued~~] granted for operation during a summer time
1642 period is known as a "Seasonal A" restaurant liquor license. The period of operation for a
1643 "Seasonal A" restaurant liquor license shall:

1644 (A) begin on May 1; and

1645 (B) end on October 31.

1646 (iv) A restaurant liquor license [~~issued~~] granted for operation during a winter time
1647 period is known as a "Seasonal B" restaurant liquor license. The period of operation for a
1648 "Seasonal B" restaurant liquor license shall:

1649 (A) begin on November 1; and

1650 (B) end on April 30.

1651 (v) In determining the number of restaurant liquor licenses that the commission may
1652 issue under this section:

1653 (A) a seasonal license is counted as [~~1/2~~] one-half of one restaurant liquor license; and

1654 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1655 (d) (i) If the location, design, and construction of a hotel may require more than one
1656 restaurant liquor sales location within the hotel to serve the public convenience, the
1657 commission may authorize the sale of liquor at as many as three restaurant locations within the
1658 hotel under one license if:

1659 (A) the hotel has a minimum of 150 guest rooms; and

1660 (B) all locations under the license are:

1661 (I) within the same hotel facility; and

1662 (II) on premises that are managed or operated and owned or leased by the licensee.

1663 (ii) A facility other than a hotel shall have a separate restaurant liquor license for each
1664 restaurant where liquor is sold.

1665 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the
1666 premises of a restaurant liquor license may not be established:

1667 (i) within 600 feet of a community location, as measured by the method in Subsection
1668 (4)[~~(c)~~](f);

1669 (ii) within 200 feet of a community location, measured in a straight line from the
1670 nearest entrance of the proposed outlet to the nearest property boundary of the community
1671 location.

1672 (b) With respect to the establishment of a restaurant liquor license, the commission
1673 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

1674 (i) the local authority grants its written consent to the variance;

1675 (ii) the commission finds that alternative locations for establishing a restaurant liquor
1676 license in the community are limited;

1677 (iii) a public hearing is held in the city, town, or county, and where practical in the
1678 neighborhood concerned;

1679 (iv) after giving full consideration to all of the attending circumstances and the
1680 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1681 establishing the restaurant liquor license would not be detrimental to the public health, peace,

1682 safety, and welfare of the community; and

1683 (v) (A) the community location governing authority gives its written consent to the
1684 variance; or

1685 (B) when written consent is not given by the community location governing authority,
1686 the commission finds that the applicant has established that:

1687 (I) there is substantial unmet public demand to consume alcohol in a public setting
1688 within the geographic boundary of the local authority in which the restaurant is to be located;

1689 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1690 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant
1691 liquor license; and

1692 (III) there is no reasonably viable alternative location within the geographic boundary
1693 of the local authority in which the restaurant is to be located for establishing a restaurant
1694 liquor license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1695 (c) With respect to the establishment of a restaurant liquor license, the commission
1696 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

1697 (i) the community location at issue is:

1698 (A) a public library; or

1699 (B) a public park;

1700 (ii) the local authority grants its written consent to the variance;

1701 (iii) the commission finds that alternative locations for establishing a restaurant liquor
1702 license in the community are limited;

1703 (iv) a public hearing is held in the city, town, or county, and where practical in the
1704 neighborhood concerned;

1705 (v) after giving full consideration to all of the attending circumstances and the policies
1706 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1707 restaurant liquor license would not be detrimental to the public health, peace, safety, and
1708 welfare of the community; and

1709 (vi) (A) the community location governing authority gives its written consent to the

1710 variance; or

1711 (B) when written consent is not given by the community location governing authority,
1712 the commission finds that the applicant has established that:

1713 (I) there is substantial unmet public demand to consume alcohol in a public setting
1714 within the geographic boundary of the local authority in which the restaurant is to be located;

1715 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1716 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a restaurant
1717 liquor license; and

1718 (III) there is no reasonably viable alternative location within the geographic boundary
1719 of the local authority in which the restaurant is to be located for establishing a restaurant
1720 liquor license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1721 (d) With respect to the premises of a restaurant liquor license ~~issued~~ granted by the
1722 commission that undergoes a change of ownership, the commission may waive or vary the
1723 proximity requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor
1724 license to the new owner of the premises if:

1725 (i) (A) the premises previously received a variance reducing the proximity requirement
1726 of Subsection (4)(a)(i); or

1727 (B) the premises received a variance reducing the proximity requirement of Subsection
1728 (4)(a)(ii) on or before May 4, 2008; or

1729 (ii) a variance from proximity requirements was otherwise allowed under this title.

1730 (e) With respect to the premises of a restaurant liquor license granted by the
1731 commission that undergoes a change of ownership, the commission shall waive or vary the
1732 proximity requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor
1733 license to the new owner of the premises if:

1734 (i) when a restaurant liquor license was granted to a previous owner, the premises met
1735 the proximity requirements of Subsection (4)(a);

1736 (ii) the premises has had a restaurant liquor license at all times since the restaurant
1737 liquor license described in Subsection (4)(e)(i) was granted without a variance; and

1738 (iii) the community location located within the proximity requirements of Subsection
1739 (4)(a) after the day on which the restaurant liquor license described in Subsection (4)(e)(i) was
1740 granted.

1741 ~~(e)~~ (f) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the
1742 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
1743 the community location.

1744 (5) (a) Nothing in this section prevents the commission from considering the
1745 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1746 reaching a decision on a proposed location.

1747 (b) For purposes of this Subsection (5), "educational facility" includes:

- 1748 (i) a nursery school;
- 1749 (ii) an infant day care center; and
- 1750 (iii) a trade and technical school.

1751 Section 15. Section **32A-4-102** is amended to read:

1752 **32A-4-102. Application and renewal requirements.**

1753 (1) A person seeking a restaurant liquor license under this part shall file a written
1754 application with the department, in a form prescribed by the department. It shall be
1755 accompanied by:

- 1756 (a) a nonrefundable \$250 application fee;
- 1757 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;
- 1758 (c) written consent of the local authority;
- 1759 (d) a copy of the applicant's current business license;
- 1760 (e) evidence of proximity to any community location, with proximity requirements
1761 being governed by Section 32A-4-101;
- 1762 (f) a bond as specified by Section 32A-4-105;
- 1763 (g) a floor plan of the restaurant, including consumption areas and the area where the
1764 applicant proposes to keep, store, and sell liquor;
- 1765 (h) evidence that the restaurant is carrying public liability insurance in an amount and

1766 form satisfactory to the department;

1767 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1768 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

1769 (j) a signed consent form stating that the restaurant will permit any authorized
1770 representative of the commission, department, or any law enforcement officer unrestricted
1771 right to enter the restaurant;

1772 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1773 company, proper verification evidencing that the person or persons signing the restaurant
1774 application are authorized to so act on behalf of the partnership, corporation, or limited
1775 liability company; and

1776 (l) any other information the commission or department may require.

1777 (2) (a) [~~AH~~] A restaurant liquor [~~licenses expire~~] license expires on October 31 of each
1778 year.

1779 (b) A person desiring to renew the person's restaurant liquor license shall by no later
1780 than September 30 submit:

1781 (i) a completed renewal application to the department; and

1782 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
under \$5,000	\$750
equals or exceeds \$5,000 but less than \$10,000	\$900
equals or exceeds \$10,000 but less than \$25,000	\$1,250
equals or exceeds \$25,000	\$1,500

1788 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1789 the license effective on the date the existing license expires.

1790 (d) A renewal application shall be in a form as prescribed by the department.

1791 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may
1792 suspend or revoke a restaurant liquor license if the restaurant liquor licensee does not
1793 immediately notify the department of any change in:

- 1794 (a) ownership of the restaurant;
- 1795 (b) for a corporate owner, the:
 - 1796 (i) corporate officers or directors; or
 - 1797 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
 - 1798 corporation; or
- 1799 (c) for a limited liability company:
 - 1800 (i) managers; or
 - 1801 (ii) members owning at least 20% of the limited liability company.

1802 Section 16. Section **32A-4-106** is amended to read:

1803 **32A-4-106. Operational restrictions.**

1804 A person granted a restaurant liquor license and the employees and management
1805 personnel of the restaurant shall comply with the following conditions and requirements.
1806 Failure to comply may result in a suspension or revocation of the restaurant liquor license or
1807 other disciplinary action taken against individual employees or management personnel.

1808 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
1809 store or package agency.

1810 (b) Liquor purchased from a state store or package agency may be transported by the
1811 restaurant liquor licensee from the place of purchase to the licensed premises.

1812 (c) Payment for liquor shall be made in accordance with rules established by the
1813 commission.

1814 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1815 a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
1816 dispensing system approved by the department in accordance with commission rules adopted
1817 under this title, except that:

1818 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1819 system if used as a secondary flavoring ingredient in a beverage subject to the following
1820 restrictions:

1821 (i) the secondary ingredient may be dispensed only in conjunction with the purchase

1822 of a primary spirituous liquor;

1823 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1824 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored

1825 on the floor plan provided to the department; and

1826 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1827 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing

1828 system if used:

1829 (i) as a flavoring on a dessert; and

1830 (ii) in the preparation of a flaming food dish, drink, or dessert;

1831 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;

1832 and

1833 (d) a restaurant patron may have no more than one spirituous liquor drink at a time

1834 before the patron.

1835 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to

1836 exceed five ounces per glass or individual portion.

1837 (ii) An individual portion of wine may be served to a patron in more than one glass as

1838 long as the total amount of wine does not exceed five ounces.

1839 (iii) An individual portion of wine is considered to be one alcoholic beverage under

1840 Subsection (7)~~(e)~~(g).

1841 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price

1842 fixed by the commission to a table of four or more persons.

1843 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price

1844 fixed by the commission to a table of less than four persons.

1845 (c) A wine service may be performed and a service charge assessed by a restaurant

1846 liquor licensee as authorized by commission rule for wine purchased at the restaurant.

1847 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a

1848 price fixed by the commission.

1849 (b) A flavored malt beverage may be served in an original container not exceeding one

1850 liter at a price fixed by the commission.

1851 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by
1852 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.

1853 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for
1854 on-premise consumption:

1855 (A) in an open container; and

1856 (B) on draft.

1857 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1858 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1859 container that exceeds one liter.

1860 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):

1861 (i) may do so without obtaining a separate on-premise beer retailer license from the
1862 commission; and

1863 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1864 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1865 inconsistent with or less restrictive than the operational restrictions under this part.

1866 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1867 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1868 restaurant's:

1869 (i) state liquor license; and

1870 (ii) alcoholic beverage license issued by the local authority.

1871 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as
1872 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee
1873 first applies for and receives approval from the department for a change of location within the
1874 restaurant.

1875 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),

1876 "grandfathered bar structure" means a bar structure in a restaurant that:

1877 (A) as of May 11, 2009 has:

1878 (I) (Aa) patron seating at the bar structure;
1879 (Bb) a partition at one or more locations on the bar structure that is along the width of
1880 the bar structure; and
1881 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of
1882 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb);
1883 or
1884 (II) (Aa) patron seating at the bar structure;
1885 (Bb) a partition at one or more locations on the bar structure that is along the length of
1886 the bar structure; and
1887 (Cc) facilities for the dispensing or storage of an alcoholic beverage:
1888 (Ii) on the portion of the bar structure that is separated by a partition described in
1889 Subsection (7)(a)(i)(A)(II)(Bb); or
1890 (Iiii) adjacent to the bar structure in a manner visible to a patron sitting at the bar
1891 structure;
1892 (B) is not operational as of May 12, 2009, and:
1893 (I) an applicant for a restaurant liquor license under this chapter:
1894 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
1895 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
1896 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
1897 Administrative Rulemaking Act; and
1898 (Cc) is granted a restaurant liquor license by the commission under this chapter by no
1899 later than December 31, 2009; and
1900 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described
1901 in Subsection (7)(a)(i)(A);
1902 (C) as of May 12, 2009, has no patron seating at the bar structure; or
1903 (D) is not operational as of May 12, 2009, and:
1904 (I) an applicant for a restaurant liquor license under this chapter:
1905 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;

1906 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
 1907 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
 1908 Administrative Rulemaking Act; and

1909 (Cc) is granted a restaurant liquor license by the commission under this chapter by no
 1910 later than December 31, 2009; and

1911 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described
 1912 in Subsection (7)(a)(i)(C).

1913 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure
 1914 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the
 1915 grandfathered bar structure, as defined by rule made by the commission in accordance with
 1916 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1917 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a
 1918 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of
 1919 ownership.

1920 ~~[(7)(a)]~~ (b) (i) A patron may only make an alcoholic beverage purchase in the
 1921 restaurant from and be served by a person employed, designated, and trained by the restaurant
 1922 liquor licensee to sell and serve an alcoholic beverage.

1923 (ii) Only a person employed, designated, and trained by a restaurant liquor licensee
 1924 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

1925 ~~[(7)(a)]~~ (iii) Notwithstanding Subsection (7)~~[(a)]~~(b)(i) or (ii), a patron who purchases
 1926 bottled wine from an employee of the restaurant or carries bottled wine onto the premises of
 1927 the restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the
 1928 patron or others at the patron's table.

1929 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

1930 (c) ~~[An]~~ A patron may consume an alcoholic beverage ~~[may]~~ only ~~[be consumed]~~:

1931 (i) at;

1932 (A) the patron's table ~~[or]~~;

1933 (B) a counter; or

1934 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and
1935 (ii) where food is served.
1936 (d) [Am] (i) An alcoholic beverage may not be served to or consumed by a patron at a
1937 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or
1938 (B).
1939 (ii) A patron who is 21 years of age or older may:
1940 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);
1941 (B) be served an alcoholic beverage at a grandfathered bar structure described in
1942 Subsection (7)(a)(i)(A) or (B); and
1943 (C) consume an alcoholic beverage at a grandfathered bar structure described in
1944 Subsection (7)(a)(i)(A) or (B).
1945 (iii) Except as provided in Subsection (7)(d)(iv), a restaurant liquor licensee may not
1946 permit a minor to, and a minor may not:
1947 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or
1948 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)
1949 or (B).
1950 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection
1951 (7)(a)(i)(A) or (B) if the minor is employed by a restaurant liquor licensee:
1952 (I) as provided in Subsection (16)(b); or
1953 (II) to perform maintenance and cleaning services during an hour when the restaurant
1954 liquor licensee is not open for business.
1955 (B) A minor may momentarily pass by a grandfathered bar structure described in
1956 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an
1957 area of a restaurant liquor licensee's premises in which the minor is permitted to be.
1958 (e) Except as provided in Subsection (14), a restaurant liquor licensee may dispense an
1959 alcoholic beverage only:
1960 (i) from:
1961 (A) a grandfathered bar structure;

1962 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting
1963 at the grandfathered bar structure if that area is used to dispense an alcoholic beverage or
1964 alcoholic product as of May 12, 2009; or

1965 (C) an area that is:

1966 (I) separated from an area for the consumption of food by a restaurant patron by a
1967 solid, opaque, permanent structural barrier such that the facilities for the dispensing or storage
1968 of an alcoholic beverage or alcoholic product are:

1969 (Aa) not readily visible to a restaurant patron; and

1970 (Bb) not accessible by a restaurant patron; and

1971 (II) apart from an area used:

1972 (Aa) for dining;

1973 (Bb) for staging; or

1974 (Cc) as a lobby or waiting area;

1975 (ii) if the restaurant liquor licensee uses an alcoholic beverage or alcoholic product
1976 that is:

1977 (A) stored in an area described in Subsection (7)(e)(i); or

1978 (B) on the premises of the restaurant liquor licensee in an area not described in
1979 Subsection (7)(e)(i) if:

1980 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in
1981 an unopened package;

1982 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it
1983 is opened; and

1984 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and

1985 (iii) if any instrument or equipment used to dispense an alcoholic beverage or
1986 alcoholic product is located in an area described in Subsection (7)(e)(i).

1987 (f) (i) A restaurant liquor licensee that has a grandfathered bar structure may receive a
1988 credit for purchases from a state store or package agency if:

1989 (A) the restaurant liquor licensee completes a remodel of the grandfathered bar

1990 structure by no later than December 31, 2011;

1991 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant
1992 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection
1993 (7)(e)(i)(C);

1994 (C) the restaurant liquor licensee requests the credit by no later than April 1, 2012;

1995 (D) the department determines that the restaurant liquor licensee has completed a
1996 remodel described in Subsections (7)(f)(i)(A) and (B); and

1997 (E) the department authorizes the credit, including the amount of the credit under
1998 Subsection (7)(f)(ii), on the basis that:

1999 (I) the restaurant liquor licensee complied with this Subsection (7); and

2000 (II) the aggregate of credits authorized under this Subsection (7)(f) and Subsection
2001 32A-4-307(7)(f) before the current authorization does not exceed the amount described in
2002 Subsection (7)(f)(v)(A).

2003 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:

2004 (A) the actual costs of the remodel as evidenced by receipts, copies of which are
2005 provided to the department as part of the request for the credit; or

2006 (B) \$30,000.

2007 (iii) For a restaurant liquor licensee, a credit under this Subsection (7)(f):

2008 (A) begins on the day on which the department authorizes the credit under Subsection
2009 (7)(f)(i); and

2010 (B) ends the day on which the restaurant liquor licensee uses all of the credit.

2011 (iv) The department shall by contract provide for how a package agency accounts for a
2012 credit purchase made at the package agency by a restaurant liquor licensee under this
2013 Subsection (7)(f).

2014 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department
2015 may not authorize a credit if the aggregate of credits authorized under this Subsection (7)(f)
2016 and Subsection 32A-4-307(7)(f) before the department authorizes the credit exceeds:

2017 (I) \$1,000,000, for the aggregate of credits under this Subsection (7)(f) and Subsection

2018 32A-4-307(7)(f), if the credit could be used on or before June 30, 2010; and
2019 (II) subject to Subsection (7)(v)(A)(I), \$1,090,000 for the aggregate of all credits that
2020 can be authorized under this Subsection (7)(f) and Subsection 32A-4-307(7)(f).
2021 (B) The department shall authorize credits in the order that the department receives a
2022 request described in Subsection (7)(f)(i)(C) from a restaurant liquor licensee requesting a
2023 credit under this Subsection (7)(f).
2024 ~~[(e)]~~ (g) A restaurant patron may have no more than two alcoholic beverages of any
2025 kind at a time before the patron, subject to the limitation in Subsection (2)(d).
2026 (8) ~~(a)~~ ~~[The]~~ A liquor storage area shall remain locked at all times other than those
2027 hours and days when liquor sales are authorized by law.
2028 (b) A restaurant liquor licensee shall store an alcoholic beverage or alcoholic product
2029 in a storage area described in Subsection (7)(e)(i).
2030 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
2031 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.
2032 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2033 Licenses, for on-premise beer licensees.
2034 (10) An alcoholic beverage may not be sold except in connection with an order for
2035 food prepared, sold, and served at the restaurant.
2036 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
2037 (a) minor;
2038 (b) person actually, apparently, or obviously intoxicated;
2039 (c) known habitual drunkard; or
2040 (d) known interdicted person.
2041 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.
2042 (ii) Liquor may not be sold at a discount price on any date or at any time.
2043 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
2044 beverage to the restaurant liquor licensee.
2045 (c) An alcoholic beverage may not be sold at a special or reduced price that

2046 encourages over consumption or intoxication.

2047 (d) An alcoholic beverage may not be sold at a special or reduced price for only
2048 certain hours of a restaurant liquor licensee's business day such as a "happy hour."

2049 (e) More than one alcoholic beverage may not be sold or served for the price of a single
2050 alcoholic beverage.

2051 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
2052 not be sold or served for a fixed price.

2053 (g) A restaurant liquor licensee may not engage in a public promotion involving or
2054 offering free an alcoholic beverage to the general public.

2055 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

2056 (a) the restaurant liquor licensee; or

2057 (b) an employee or agent of the restaurant liquor licensee.

2058 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an
2059 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2060 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant
2061 liquor licensee for on-premise consumption.

2062 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an
2063 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

2064 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise
2065 consumption; or

2066 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the
2067 restaurant liquor licensee's premises.

2068 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2069 or other representative of the restaurant liquor licensee upon entering the restaurant.

2070 (d) A wine service may be performed and a service charge assessed by a restaurant
2071 liquor licensee as authorized by commission rule for wine carried in by a patron.

2072 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an
2073 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the

2074 restaurant premises an open container that:

2075 (i) is used primarily for drinking purposes; and

2076 (ii) contains an alcoholic beverage.

2077 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
2078 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
2079 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is
2080 recorked or recapped before removal.

2081 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an
2082 alcoholic beverage.

2083 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2084 employed to enter the sale at a cash register or other sales recording device.

2085 (17) An employee of a restaurant liquor licensee, while on duty, may not:

2086 (a) consume an alcoholic beverage; or

2087 (b) be intoxicated.

2088 (18) A charge or fee made in connection with the sale, service, or consumption of
2089 liquor may be stated in food or alcoholic beverage menus including:

2090 (a) a set-up charge;

2091 (b) a service charge; or

2092 (c) a chilling fee.

2093 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

2094 (a) the liquor license that is [~~issued~~] granted by the department;

2095 (b) a list of the types and brand names of liquor being served through its calibrated
2096 metered dispensing system; and

2097 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2098 drugs is a serious crime that is prosecuted aggressively in Utah."

2099 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
2100 licensee:

2101 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,

2102 Chapter 10, Part 11, Gambling;

2103 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2104 Part 11, Gambling; or

2105 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
2106 requires the risking of something of value for a return or for an outcome when the return or
2107 outcome is based upon an element of chance, excluding the playing of an amusement device
2108 that confers only an immediate and unrecorded right of replay not exchangeable for value.

2109 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record
2110 showing in detail:

2111 (i) quarterly expenditures made separately for:

2112 (A) malt or brewed beverages;

2113 (B) set-ups;

2114 (C) liquor;

2115 (D) food; and

2116 (E) all other items required by the department; and

2117 (ii) sales made separately for:

2118 (A) malt or brewed beverages;

2119 (B) set-ups;

2120 (C) food; and

2121 (D) all other items required by the department.

2122 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):

2123 (i) in a form approved by the department; and

2124 (ii) current for each three-month period.

2125 (c) An expenditure shall be supported by:

2126 (i) a delivery ticket;

2127 (ii) an invoice;

2128 (iii) a receipted bill;

2129 (iv) a canceled check;

2130 (v) a petty cash voucher; or

2131 (vi) other sustaining datum or memorandum.

2132 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
2133 liquor licensee shall maintain accounting and other records and documents as the department
2134 may require.

2135 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
2136 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
2137 other document of the restaurant that is required to be made, maintained, or preserved by this
2138 title or the rules of the commission for the purpose of deceiving the commission or the
2139 department, or an official or employee of the commission or department, is subject to:

2140 (i) the suspension or revocation of the restaurant's liquor license; and

2141 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2142 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
2143 longer than 240 hours, unless:

2144 (i) the restaurant liquor licensee notifies the department in writing at least seven days
2145 before the day on which the restaurant liquor licensee closes or ceases operation; and

2146 (ii) the closure or cessation of operation is first approved by the department.

2147 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the
2148 restaurant liquor licensee shall immediately notify the department by telephone.

2149 (c) (i) The department may authorize a closure or cessation of operation for a period
2150 not to exceed 60 days.

2151 (ii) The department may extend the initial period an additional 30 days upon:

2152 (A) written request of the restaurant liquor licensee; and

2153 (B) a showing of good cause.

2154 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2155 commission approval.

2156 (d) A notice shall include:

2157 (i) the dates of closure or cessation of operation;

- 2158 (ii) the reason for the closure or cessation of operation; and
2159 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.
- 2160 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
2161 authorization before closure or cessation of operation results in an automatic forfeiture of:
2162 (i) the license; and
2163 (ii) the unused portion of the license fee for the remainder of the license year effective
2164 immediately.
- 2165 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
2166 approved date results in an automatic forfeiture of:
2167 (i) the license; and
2168 (ii) the unused portion of the license fee for the remainder of the license year.
- 2169 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant
2170 business from the sale of food, which does not include mix for an alcoholic beverage or
2171 service charges.
- 2172 (24) A restaurant liquor license may not be transferred from one location to another,
2173 without prior written approval of the commission.
- 2174 (25) (a) A person, having been granted a restaurant liquor license may not sell,
2175 transfer, assign, exchange, barter, give, or attempt in any way to dispose of the restaurant
2176 liquor license to another person whether for monetary gain or not.
- 2177 (b) A restaurant liquor license has no monetary value for the purpose of any type of
2178 disposition.
- 2179 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment
2180 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic
2181 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic
2182 beverage ordered or consumed.
- 2183 (27) A person's willingness to serve an alcoholic beverage may not be made a
2184 condition of employment as a server with a restaurant that has a restaurant liquor license.
- 2185 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may

2186 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
2187 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2188 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2189 58-37-2; or

2190 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2191 Section 58-37a-3.

2192 Section 17. Section **32A-4-202** is amended to read:

2193 **32A-4-202. Application and renewal requirements.**

2194 (1) A person seeking an airport lounge liquor license under this part shall file a written
2195 application with the department, in a form prescribed by the department, accompanied by:

2196 (a) a nonrefundable \$250 application fee;

2197 (b) an initial license fee of \$7,000, which is refundable if a license is not granted;

2198 (c) written consent of the local and airport authority;

2199 (d) a copy of the applicant's current business license;

2200 (e) a bond as specified by Section 32A-4-205;

2201 (f) a floor plan of the airport lounge, including consumption areas and the area where
2202 the applicant proposes to keep, store, and sell liquor;

2203 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
2204 public that alcoholic beverages are sold and consumed there;

2205 (h) evidence that the airport lounge is carrying public liability insurance in an amount
2206 and form satisfactory to the department;

2207 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
2208 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

2209 (j) a signed consent form stating that the airport lounge will permit any authorized
2210 representative of the commission, department, or any law enforcement officer unrestricted
2211 right to enter the airport lounge;

2212 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2213 company, proper verification evidencing that the person or persons signing the airport lounge

2214 application are authorized to so act on behalf of the partnership, corporation, or limited
2215 liability company; and

2216 (1) any other information the commission or department may require.

2217 (2) (a) [~~AH~~] An airport lounge liquor [~~licenses expire~~] license expires on October 31 of
2218 each year.

2219 (b) A person desiring to renew that person's airport lounge liquor license shall submit
2220 a renewal fee of \$5,000 and a completed renewal application to the department no later than
2221 September 30.

2222 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2223 the license, effective on the date the existing license expires.

2224 (d) Renewal applications shall be in a form as prescribed by the department.

2225 (3) To ensure compliance with Subsection 32A-4-206(21), the commission may
2226 revoke an airport lounge liquor license if the airport liquor licensee does not immediately
2227 notify the department of any change in:

2228 (a) ownership of the licensee;

2229 (b) for a corporate owner, the:

2230 (i) corporate officers or directors; or

2231 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2232 corporation; or

2233 (c) for a limited liability company:

2234 (i) managers; or

2235 (ii) members owning at least 20% of the limited liability company.

2236 Section 18. Section **32A-4-302** is amended to read:

2237 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2238 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2239 and beer on its premises, but not spirituous liquor or [~~on or after October 1, 2008,~~] a flavored
2240 malt beverage, shall obtain a limited restaurant license from the commission as provided in
2241 this part before selling or allowing the consumption of wine, heavy beer, or beer on its

2242 premises.

2243 (2) (a) Subject to the other provisions of this section and Subsection 32A-4a-201(2),
2244 the commission may [~~issue~~] grant limited restaurant licenses for the purpose of establishing
2245 limited restaurant outlets at places and in numbers the commission considers proper for the
2246 storage, sale, and consumption of wine, heavy beer, and beer on premises operated as public
2247 restaurants.

2248 (b) The total number of limited restaurant licenses [~~issued~~] granted under this part
2249 may not at any time aggregate more than that number determined by dividing the population
2250 of the state by 9,300.

2251 (c) For purposes of this Subsection (2), population shall be determined by:

2252 (i) the most recent United States decennial or special census; or

2253 (ii) another population determination made by the United States or state governments.

2254 (3) (a) (i) The commission may [~~issue~~] grant seasonal limited restaurant licenses
2255 established in areas the commission considers necessary.

2256 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2257 months.

2258 (b) (i) A limited restaurant license [~~issued~~] granted for operation during a summer
2259 time period is known as a "Seasonal A" limited restaurant license. The period of operation for
2260 a "Seasonal A" limited restaurant license shall:

2261 (A) begin on May 1; and

2262 (B) end on October 31.

2263 (ii) A limited restaurant license [~~issued~~] granted for operation during a winter time
2264 period is known as a "Seasonal B" limited restaurant license. The period of operation for a
2265 "Seasonal B" limited restaurant license shall:

2266 (A) begin on November 1; and

2267 (B) end on April 30.

2268 (iii) In determining the number of limited restaurant licenses that the commission may
2269 [~~issue~~] grant under this section:

2270 (A) a seasonal limited restaurant license is counted as [~~1~~/~~2~~] one-half of one limited
2271 restaurant license; and

2272 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"
2273 limited restaurant license.

2274 (c) If the location, design, and construction of a hotel may require more than one
2275 limited restaurant sales location within the hotel to serve the public convenience, the
2276 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
2277 restaurant locations within the hotel under one license if:

2278 (i) the hotel has a minimum of 150 guest rooms; and

2279 (ii) all locations under the license are:

2280 (A) within the same hotel facility; and

2281 (B) on premises that are:

2282 (I) managed or operated by the licensee; and

2283 (II) owned or leased by the licensee.

2284 (d) A facility other than a hotel shall have a separate limited restaurant license for each
2285 restaurant where wine, heavy beer, and beer are sold.

2286 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the
2287 premises of a limited restaurant license may not be established:

2288 (i) within 600 feet of a community location, as measured by the method in Subsection
2289 (4)[~~(c)~~](f); or

2290 (ii) within 200 feet of a community location, measured in a straight line from the
2291 nearest entrance of the proposed outlet to the nearest property boundary of the community
2292 location.

2293 (b) With respect to the establishment of a limited restaurant license, the commission
2294 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

2295 (i) the local authority grants its written consent to the variance;

2296 (ii) the commission finds that alternative locations for establishing a limited restaurant
2297 license in the community are limited;

2298 (iii) a public hearing is held in the city, town, or county, and where practical in the
2299 neighborhood concerned;

2300 (iv) after giving full consideration to all of the attending circumstances and the
2301 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2302 establishing the license would not be detrimental to the public health, peace, safety, and
2303 welfare of the community; and

2304 (v) (A) the community location governing authority gives its written consent to the
2305 variance; or

2306 (B) when written consent is not given by the community location governing authority,
2307 the commission finds that the applicant has established that:

2308 (I) there is substantial unmet public demand to consume alcohol in a public setting
2309 within the geographic boundary of the local authority in which the limited restaurant licensee
2310 is to be located;

2311 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2312 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited
2313 restaurant license; and

2314 (III) there is no reasonably viable alternative location within the geographic boundary
2315 of the local authority in which the limited restaurant licensee is to be located for establishing a
2316 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2317 (c) With respect to the establishment of a limited restaurant license, the commission
2318 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

2319 (i) the community location at issue is:

2320 (A) a public library; or

2321 (B) a public park;

2322 (ii) the local authority grants its written consent to the variance;

2323 (iii) the commission finds that alternative locations for establishing a limited
2324 restaurant license in the community are limited;

2325 (iv) a public hearing is held in the city, town, or county, and where practical in the

2326 neighborhood concerned;

2327 (v) after giving full consideration to all of the attending circumstances and the policies
2328 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2329 limited restaurant license would not be detrimental to the public health, peace, safety, and
2330 welfare of the community; and

2331 (vi) (A) the community location governing authority gives its written consent to the
2332 variance; or

2333 (B) when written consent is not given by the community location governing authority,
2334 the commission finds that the applicant has established that:

2335 (I) there is substantial unmet public demand to consume alcohol in a public setting
2336 within the geographic boundary of the local authority in which the limited restaurant licensee
2337 is to be located;

2338 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2339 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a limited
2340 restaurant license; and

2341 (III) there is no reasonably viable alternative location within the geographic boundary
2342 of the local authority in which the limited restaurant licensee is to be located for establishing a
2343 limited restaurant license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

2344 (d) With respect to the premises of a limited restaurant license [~~issued~~] granted by the
2345 commission that undergoes a change of ownership, the commission may waive or vary the
2346 proximity requirements of Subsection (4)(a) in considering whether to grant a limited
2347 restaurant license to the new owner of the premises if:

2348 (i) (A) the premises previously received a variance reducing the proximity requirement
2349 of Subsection (4)(a)(i); or

2350 (B) the premises received a variance reducing the proximity requirement of Subsection
2351 (4)(a)(ii) on or before May 4, 2008; or

2352 (ii) a variance from proximity requirements was otherwise allowed under this title.

2353 (e) With respect to the premises of a limited restaurant license granted by the

2354 commission that undergoes a change of ownership, the commission shall waive or vary the
2355 proximity requirements of Subsection (4)(a) in considering whether to grant a limited
2356 restaurant license to the new owner of the premises if:

2357 (i) when a limited restaurant license was granted to a previous owner, the premises
2358 met the proximity requirements of Subsection (4)(a);

2359 (ii) the premises has had a limited restaurant license at all times since the limited
2360 restaurant license described in Subsection (4)(e)(i) was granted without a variance; and

2361 (iii) the community location located within the proximity requirements of Subsection
2362 (4)(a) after the day on which the limited restaurant license described in Subsection (4)(e)(i)
2363 was granted.

2364 [~~(e)~~] (f) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from
2365 the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel
2366 to the property boundary of the community location.

2367 (5) (a) Nothing in this section prevents the commission from considering the
2368 proximity of any educational, religious, and recreational facility, or any other relevant factor in
2369 reaching a decision on a proposed location.

2370 (b) For purposes of this Subsection (5), "educational facility" includes:

- 2371 (i) a nursery school;
- 2372 (ii) an infant day care center; and
- 2373 (iii) a trade and technical school.

2374 Section 19. Section **32A-4-303** is amended to read:

2375 **32A-4-303. Application and renewal requirements.**

2376 (1) A person seeking a limited restaurant license under this part shall file a written
2377 application with the department, in a form prescribed by the department. The application shall
2378 be accompanied by:

- 2379 (a) a nonrefundable \$250 application fee;
- 2380 (b) an initial license fee of \$500, which is refundable if a license is not granted;
- 2381 (c) written consent of the local authority;

- 2382 (d) a copy of the applicant's current business license;
- 2383 (e) evidence of proximity to any community location, with proximity requirements
- 2384 being governed by Section 32A-4-302;
- 2385 (f) a bond as specified by Section 32A-4-306;
- 2386 (g) a floor plan of the restaurant, including:
- 2387 (i) consumption areas; and
- 2388 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
- 2389 beer;
- 2390 (h) evidence that the restaurant is carrying public liability insurance in an amount and
- 2391 form satisfactory to the department;
- 2392 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
- 2393 ~~[\$500,000]~~ \$1,000,000 per occurrence and ~~[\$1,000,000]~~ \$2,000,000 in the aggregate;
- 2394 (j) a signed consent form stating that the restaurant will permit any authorized
- 2395 representative of the commission, department, or any law enforcement officer unrestricted
- 2396 right to enter the restaurant;
- 2397 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 2398 company, proper verification evidencing that the person or persons signing the restaurant
- 2399 application are authorized to so act on behalf of the partnership, corporation, or limited
- 2400 liability company; and
- 2401 (l) any other information the commission or department may require.
- 2402 (2) (a) ~~[AH]~~ A limited restaurant ~~[licenses expire]~~ license expires on October 31 of
- 2403 each year.
- 2404 (b) A person desiring to renew that person's limited restaurant license shall submit:
- 2405 (i) a renewal fee of \$300; and
- 2406 (ii) a renewal application to the department no later than September 30.
- 2407 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 2408 the license effective on the date the existing license expires.
- 2409 (d) A renewal application shall be in a form as prescribed by the department.

- 2410 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
2411 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2412 immediately notify the department of any change in:
- 2413 (a) ownership of the restaurant;
 - 2414 (b) for a corporate owner, the:
 - 2415 (i) corporate officer or directors; or
 - 2416 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2417 corporation; or
 - 2418 (c) for a limited liability company:
 - 2419 (i) managers; or
 - 2420 (ii) members owning at least 20% of the limited liability company.

2421 Section 20. Section **32A-4-307** is amended to read:

2422 **32A-4-307. Operational restrictions.**

2423 A person granted a limited restaurant license and the employees and management
2424 personnel of the limited restaurant shall comply with the following conditions and
2425 requirements. Failure to comply may result in a suspension or revocation of the license or
2426 other disciplinary action taken against individual employees or management personnel.

2427 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2428 except from a state store or package agency.

2429 (b) Wine and heavy beer purchased from a state store or package agency may be
2430 transported by the limited restaurant licensee from the place of purchase to the licensed
2431 premises.

2432 (c) Payment for wine and heavy beer shall be made in accordance with rules
2433 established by the commission.

2434 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the
2435 products listed in Subsection (2)(c) on the premises of the limited restaurant.

2436 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited
2437 restaurant except for use:

- 2438 (i) as a flavoring on a dessert; and
- 2439 (ii) in the preparation of a flaming food dish, drink, or dessert.
- 2440 (c) This Subsection (2) applies to:
- 2441 (i) spirituous liquor; and
- 2442 (ii) [~~on or after October 1, 2008;~~] a flavored malt beverage.
- 2443 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
- 2444 exceed five ounces per glass or individual portion.
- 2445 (ii) An individual portion may be served to a patron in more than one glass as long as
- 2446 the total amount of wine does not exceed five ounces.
- 2447 (iii) An individual portion of wine is considered to be one alcoholic beverage under
- 2448 Subsection (7)~~(f)~~(g).
- 2449 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
- 2450 fixed by the commission to a table of four or more persons.
- 2451 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
- 2452 fixed by the commission to a table of less than four persons.
- 2453 (c) A wine service may be performed and a service charge assessed by the limited
- 2454 restaurant licensee as authorized by commission rule for wine purchased at the limited
- 2455 restaurant.
- 2456 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a
- 2457 price fixed by the commission.
- 2458 (b) A service charge may be assessed by the limited restaurant licensee as authorized
- 2459 by commission rule for heavy beer purchased at the limited restaurant.
- 2460 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer
- 2461 for on-premise consumption:
- 2462 (A) in an open container; and
- 2463 (B) on draft.
- 2464 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
- 2465 not exceed two liters, except that beer may not be sold to an individual patron in a size of

2466 container that exceeds one liter.

2467 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2468 (i) may do so without obtaining a separate on-premise beer retailer license from the
2469 commission; and

2470 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2471 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
2472 inconsistent with or less restrictive than the operational restrictions under this part.

2473 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2474 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
2475 restaurant's:

2476 (i) limited restaurant license; and

2477 (ii) alcoholic beverage license issued by the local authority.

2478 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than
2479 as designated in the limited restaurant licensee's application, unless the limited restaurant
2480 licensee first applies for and receives approval from the department for a change of location
2481 within the limited restaurant.

2482 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),

2483 "grandfathered bar structure" means a bar structure in a restaurant that:

2484 (A) as of May 11, 2009 has:

2485 (I) (Aa) patron seating at the bar structure;

2486 (Bb) a partition at one or more locations on the bar structure that is along the width of
2487 the bar structure; and

2488 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of
2489 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb);

2490 or

2491 (II) (Aa) patron seating at the bar structure;

2492 (Bb) a partition at one or more locations on the bar structure that is along the length of
2493 the bar structure; and

2494 (Cc) facilities for the dispensing or storage of an alcoholic beverage:
2495 (Ii) on the portion of the bar structure that is separated by a partition described in
2496 Subsection (7)(a)(i)(A)(II)(Bb); or
2497 (Iiii) adjacent to the bar structure in a manner visible to a patron sitting at the bar
2498 structure;
2499 (B) is not operational as of May 12, 2009, and:
2500 (I) an applicant for a limited restaurant license under this chapter:
2501 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
2502 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2503 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
2504 Administrative Rulemaking Act; and
2505 (Cc) is granted a limited restaurant license by the commission under this chapter by no
2506 later than December 31, 2009; and
2507 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described
2508 in Subsection (7)(a)(i)(A);
2509 (C) as of May 12, 2009, has no patron seating at the bar structure; or
2510 (D) is not operational as of May 12, 2009, and:
2511 (I) an applicant for a limited restaurant license under this chapter:
2512 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;
2513 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2514 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah
2515 Administrative Rulemaking Act; and
2516 (Cc) is granted a limited restaurant license by the commission under this chapter by no
2517 later than December 31, 2009; and
2518 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described
2519 in Subsection (7)(a)(i)(C).
2520 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure
2521 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the

2522 grandfathered bar structure, as defined by rule made by the commission in accordance with
 2523 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2524 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a
 2525 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of
 2526 ownership.

2527 ~~[(7)(a)]~~ (b) (i) A patron may only make an alcoholic beverage purchase in a limited
 2528 restaurant from and be served by a person employed, designated, and trained by the limited
 2529 restaurant licensee to sell and serve an alcoholic beverage.

2530 (ii) Only a person employed, designated, and trained by a limited restaurant licensee
 2531 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

2532 ~~[(ii)]~~ (iii) Notwithstanding Subsection (7)~~[(a)]~~(b)(i) or (ii), a patron who purchases
 2533 bottled wine from an employee of the limited restaurant licensee or carries bottled wine onto
 2534 the premises of the limited restaurant pursuant to Subsection (14) may thereafter serve wine
 2535 from the bottle to the patron or others at the patron's table.

2536 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

2537 (c) ~~[An]~~ A patron may consume an alcoholic beverage ~~[may]~~ only ~~[be consumed]~~:

2538 (i) at:

2539 (A) the patron's table ~~[or]~~;

2540 (B) a counter;

2541 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and

2542 (ii) where food is served.

2543 (d) ~~[An]~~ (i) An alcoholic beverage may not be served to or consumed by a patron at a
 2544 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or
 2545 (B).

2546 (ii) A patron who is 21 years of age or older may:

2547 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);

2548 (B) be served an alcoholic beverage at a grandfathered bar structure described in

2549 Subsection (7)(a)(i)(A) or (B); and

2550 (C) consume an alcoholic beverage at a grandfathered bar structure described in
2551 Subsection (7)(a)(i)(A) or (B).

2552 (iii) Except as provided in Subsection (7)(d)(iv), a limited restaurant licensee may not
2553 permit a minor to, and a minor may not:

2554 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or
2555 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)
2556 or (B).

2557 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection
2558 (7)(a)(i)(A) or (B) if the minor is employed by a limited restaurant licensee:

2559 (I) as provided in Subsection (16)(b); or
2560 (II) to perform maintenance and cleaning services during an hour when the limited
2561 restaurant licensee is not open for business.

2562 (B) A minor may momentarily pass by a grandfathered bar structure described in
2563 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an
2564 area of a limited restaurant licensee's premises in which the minor is permitted to be.

2565 (e) Except as provided in Subsection (14), a limited restaurant licensee may dispense
2566 an alcoholic beverage only:

2567 (i) from:

2568 (A) a grandfathered bar structure;
2569 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting
2570 at the grandfathered bar structure if that area is used to dispense an alcoholic beverage or
2571 alcoholic product as of May 12, 2009; or

2572 (C) an area that is:

2573 (I) separated from an area for the consumption of food by a restaurant patron by a
2574 solid, opaque, permanent structural barrier such that the facilities for the dispensing or storage
2575 of an alcoholic beverage or alcoholic product are:

2576 (Aa) not readily visible to a restaurant patron; and
2577 (Bb) not accessible by a restaurant patron; and

2578 (II) apart from an area used for:
2579 (Aa) dining;
2580 (Bb) staging; or
2581 (Cc) as a lobby or waiting area;
2582 (ii) if the limited restaurant licensee uses an alcoholic beverage or alcoholic product
2583 that is:
2584 (A) stored in an area described in Subsection (7)(e)(i); or
2585 (B) on the premises of the limited restaurant licensee in an area not described in
2586 Subsection (7)(e)(i) if:
2587 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in
2588 an unopened package;
2589 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it
2590 is opened; and
2591 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and
2592 (iii) if any instrument or equipment used to dispense an alcoholic beverage is located
2593 in an area described in Subsection (7)(e)(i).
2594 (f) (i) A limited restaurant licensee that has a grandfathered bar structure may receive
2595 a credit for purchases from a state store or package agency if:
2596 (A) the limited restaurant licensee completes a remodel of the grandfathered bar
2597 structure by no later than December 31, 2011;
2598 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant
2599 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection
2600 (7)(e)(i)(C);
2601 (C) the limited restaurant licensee requests the credit by no later than April 1, 2012;
2602 (D) the department determines that the limited restaurant licensee has completed a
2603 remodel described in Subsections (7)(f)(i)(A) and (B); and
2604 (E) the department authorizes the credit, including the amount of the credit under
2605 Subsection (7)(f)(ii), on the basis that:

2606 (I) the limited restaurant licensee complied with this Subsection (7); and
2607 (II) the aggregate of credits authorized under this Subsection (7)(f) and Subsection
2608 32A-4-106(7)(f) before the current authorization does not exceed the amount described in
2609 Subsection (7)(f)(v)(A).

2610 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:
2611 (A) the actual costs of the remodel as evidenced by receipts, copies of which are
2612 provided to the department as part of the request for the credit; or
2613 (B) \$30,000.

2614 (iii) For a limited restaurant licensee, a credit under this Subsection (7)(f):
2615 (A) begins on the day on which the department authorizes the credit under Subsection
2616 (7)(f)(i); and
2617 (B) ends the day on which the limited restaurant licensee uses all of the credit.

2618 (iv) The department shall by contract provide for how a package agency accounts for a
2619 credit purchase made at the package agency by a limited restaurant licensee under this
2620 Subsection (7)(f).

2621 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department
2622 may not authorize a credit if the aggregate of credits authorized under this Subsection (7)(f)
2623 and Subsection 32A-4-106(7)(f) before the department authorizes the credit exceeds:

2624 (I) \$1,000,000, for the aggregate of credits under this Subsection (7)(f) and Subsection
2625 32A-4-106(7)(f), if the credit could be used on or before June 30, 2010; and
2626 (II) subject to Subsection (7)(v)(A)(I), \$1,090,000 for the aggregate of all credits that
2627 can be authorized under this Subsection (7)(f) and Subsection 32A-4-106(7)(f).

2628 (B) The department shall authorize credits in the order that the department receives a
2629 request described in Subsection (7)(f)(i)(C) from a limited restaurant licensee requesting a
2630 credit under this Subsection (7)(f).

2631 ~~(e)~~ (g) A limited restaurant patron may have no more than two alcoholic beverages
2632 of any kind at a time before the patron.

2633 (8) (a) ~~The~~ An alcoholic beverage storage area shall remain locked at all times other

2634 than those hours and days when alcoholic beverage sales are authorized by law.

2635 (b) A limited restaurant licensee shall store an alcoholic beverage or alcoholic product
2636 in a storage area described in Subsection (7)(e)(i).

2637 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2638 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.

2639 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2640 Licenses, for on-premise beer licensees.

2641 (10) An alcoholic beverage may not be sold except in connection with an order of food
2642 prepared, sold, and served at the limited restaurant.

2643 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

2644 (a) minor;

2645 (b) person actually, apparently, or obviously intoxicated;

2646 (c) known habitual drunkard; or

2647 (d) known interdicted person.

2648 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

2649 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any
2650 time.

2651 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
2652 beverage to the limited restaurant licensee.

2653 (c) An alcoholic beverage may not be sold at a special or reduced price that
2654 encourages over consumption or intoxication.

2655 (d) An alcoholic beverage may not be sold at a special or reduced price for only
2656 certain hours of the limited restaurant licensee's business day such as a "happy hour."

2657 (e) More than one alcoholic beverage may not be sold or served for the price of a single
2658 alcoholic beverage.

2659 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
2660 not be sold or served for a fixed price.

2661 (g) A limited restaurant licensee may not engage in a public promotion involving or

2662 offering free alcoholic beverages to the general public.

2663 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant
2664 by:

2665 (a) the limited restaurant licensee; or

2666 (b) an employee or agent of the limited restaurant licensee.

2667 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an
2668 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2669 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited
2670 restaurant licensee for on-premise consumption.

2671 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an
2672 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

2673 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for
2674 on-premise consumption; or

2675 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
2676 limited restaurant licensee's premises.

2677 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2678 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2679 (d) A wine service may be performed and a service charge assessed by the limited
2680 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2681 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an
2682 employee of the limited restaurant licensee may not permit a restaurant patron to carry from
2683 the limited restaurant premises an open container that:

2684 (i) is used primarily for drinking purposes; and

2685 (ii) contains an alcoholic beverage.

2686 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2687 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

2688 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an
2689 alcoholic beverage.

2690 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2691 employed to enter the sale at a cash register or other sales recording device.

2692 (17) An employee of a limited restaurant licensee, while on duty, may not:

2693 (a) consume an alcoholic beverage; or

2694 (b) be intoxicated.

2695 (18) A charge or fee made in connection with the sale, service, or consumption of
2696 wine or heavy beer may be stated in food or alcoholic beverage menus including:

2697 (a) a service charge; or

2698 (b) a chilling fee.

2699 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:

2700 (a) the limited restaurant license that is [~~issued~~] granted by the department; and

2701 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2702 drugs is a serious crime that is prosecuted aggressively in Utah."

2703 (20) A limited restaurant licensee may not on the premises of the restaurant:

2704 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2705 Chapter 10, Part 11, Gambling;

2706 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2707 Part 11, Gambling; or

2708 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
2709 requires the risking of something of value for a return or for an outcome when the return or
2710 outcome is based upon an element of chance, excluding the playing of an amusement device
2711 that confers only an immediate and unrecorded right of replay not exchangeable for value.

2712 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
2713 showing in detail:

2714 (i) quarterly expenditures made separately for:

2715 (A) wine;

2716 (B) heavy beer;

2717 (C) beer;

- 2718 (D) food; and
- 2719 (E) all other items required by the department; and
- 2720 (ii) sales made separately for:
- 2721 (A) wine;
- 2722 (B) heavy beer;
- 2723 (C) beer;
- 2724 (D) food; and
- 2725 (E) all other items required by the department.
- 2726 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):
- 2727 (i) in a form approved by the department; and
- 2728 (ii) current for each three-month period.
- 2729 (c) An expenditure shall be supported by:
- 2730 (i) a delivery ticket;
- 2731 (ii) an invoice;
- 2732 (iii) a receipted bill;
- 2733 (iv) a canceled check;
- 2734 (v) a petty cash voucher; or
- 2735 (vi) other sustaining datum or memorandum.
- 2736 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2737 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2738 the department may require.
- 2739 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2740 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 2741 other document of the limited restaurant that is required to be made, maintained, or preserved
- 2742 by this title or the rules of the commission for the purpose of deceiving the commission, the
- 2743 department, or an official or employee of the commission or department, is subject to:
- 2744 (i) the suspension or revocation of the limited restaurant's license; and
- 2745 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2746 (22) (a) A limited restaurant licensee may not close or cease operation for a period
2747 longer than 240 hours, unless:

2748 (i) the limited restaurant licensee notifies the department in writing at least seven days
2749 before the day on which the limited restaurant licensee closes or ceases operation; and

2750 (ii) the closure or cessation of operation is first approved by the department.

2751 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
2752 restaurant licensee shall immediately notify the department by telephone.

2753 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
2754 cessation of operation for a period not to exceed 60 days.

2755 (ii) The department may extend the initial period an additional 30 days upon:

2756 (A) written request of the limited restaurant licensee; and

2757 (B) a showing of good cause.

2758 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2759 commission approval.

2760 (d) A notice required by Subsection (22)(a) shall include:

2761 (i) the dates of closure or cessation of operation;

2762 (ii) the reason for the closure or cessation of operation; and

2763 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

2764 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
2765 authorization before closure or cessation of operation results in an automatic forfeiture of:

2766 (i) the limited restaurant license; and

2767 (ii) the unused portion of the license fee for the remainder of the license year effective
2768 immediately.

2769 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
2770 approved date results in an automatic forfeiture of:

2771 (i) the limited restaurant license; and

2772 (ii) the unused portion of the license fee for the remainder of the license year.

2773 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant

2774 business from the sale of food, which does not include service charges.

2775 (24) A limited restaurant license may not be transferred from one location to another,
2776 without prior written approval of the commission.

2777 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
2778 give, or attempt in any way to dispose of the limited restaurant license to another person
2779 whether for monetary gain or not.

2780 (b) A limited restaurant license has no monetary value for the purpose of any type of
2781 disposition.

2782 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
2783 establishment shall keep a written beverage tab for each table or group that orders or consumes
2784 an alcoholic beverage on the premises.

2785 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of
2786 an alcoholic beverage ordered or consumed.

2787 (27) A limited restaurant licensee may not make a person's willingness to serve an
2788 alcoholic beverage a condition of employment as a server with the limited restaurant.

2789 (28) A limited restaurant licensee or an employee of the limited restaurant licensee
2790 may not knowingly allow a person on the licensed premises to, in violation of Title 58,
2791 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2792 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2793 58-37-2; or

2794 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2795 Section 58-37a-3.

2796 Section 21. Section **32A-4-401** is amended to read:

2797 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2798 (1) (a) For purposes of this part:

2799 (i) "Banquet" means an event:

2800 (A) for which there is a contract:

2801 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2802 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide an
2803 alcoholic [~~beverages~~] beverage at the event;

2804 (B) held at one or more designated locations approved by the commission in or on the
2805 premises of a:

2806 (I) hotel;

2807 (II) resort facility;

2808 (III) sports center; or

2809 (IV) convention center; and

2810 (C) at which food and alcoholic beverages may be sold and served.

2811 (ii) "Convention center" is [~~as~~] a facility that:

2812 (A) is in total at least 30,000 square feet; and

2813 (B) is otherwise defined as a "convention center" by the commission by rule.

2814 (iii) "Hotel" is as defined by the commission by rule.

2815 (iv) "Resort facility" is as defined by the commission by rule.

2816 (v) "Room service" means service of an alcoholic [~~beverages~~] beverage to a guest
2817 room of a:

2818 (A) hotel; or

2819 (B) resort facility.

2820 (vi) "Sports center" is as defined by the commission by rule.

2821 (b) The commission may [~~issue~~] grant an on-premise banquet license to any of the
2822 following persons for the purpose of allowing the storage, sale, service, and consumption of an
2823 alcoholic [~~beverages~~] beverage in connection with that person's banquet and room service
2824 activities:

2825 (i) a hotel;

2826 (ii) a resort facility;

2827 (iii) a sports center; or

2828 (iv) a convention center.

2829 (c) This chapter [~~is not intended to~~] does not prohibit an alcoholic [~~beverages~~]

2830 beverage on the premises of a person listed in Subsection (1) to the extent otherwise permitted
2831 by this title.

2832 (2) (a) Subject to this section and Subsection 32A-4a-201(2), the total number of
2833 on-premise banquet licenses may not at any time aggregate more than that number determined
2834 by dividing the population of the state by 30,000.

2835 (b) For purposes of this Subsection (2), the population of the state shall be determined
2836 by:

2837 (i) the most recent United States decennial or special census; or

2838 (ii) another population determination made by the United States or state governments.

2839 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
2840 licensee:

2841 (a) the host of a contracted banquet may request an on-premise banquet licensee to
2842 provide an alcoholic [~~beverages~~] beverage served at a banquet; and

2843 (b) an on-premise banquet licensee may provide [~~the~~] an alcoholic [~~beverages~~]
2844 beverage served at a banquet.

2845 (4) At a banquet, an on-premise banquet licensee may provide:

2846 (a) a hosted bar; or

2847 (b) a cash bar.

2848 (5) Nothing in this section [~~shall prohibit~~] prohibits a qualified on-premise banquet
2849 license applicant from applying for a package agency.

2850 (6) (a) Except as provided in Subsection (6)(b), (c), or (d), the premises of an
2851 on-premise banquet license may not be established:

2852 (i) within 600 feet of a community location, as measured by the method in Subsection
2853 (6)(e); or

2854 (ii) within 200 feet of a community location, measured in a straight line from the
2855 nearest entrance of the proposed outlet to the nearest property boundary of the community
2856 location.

2857 (b) With respect to the establishment of an on-premise banquet license, the

2858 commission may authorize a variance to reduce the proximity requirement of Subsection
2859 (6)(a)(i) if:

2860 (i) the local authority grants its written consent to the variance;

2861 (ii) the commission finds that alternative locations for establishing an on-premise
2862 banquet license in the community are limited;

2863 (iii) the variance is authorized after a public hearing is held in the city, town, or
2864 county, and where practical in the neighborhood concerned;

2865 (iv) after giving full consideration to all of the attending circumstances and the
2866 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2867 establishing the license would not be detrimental to the public health, peace, safety, and
2868 welfare of the community; and

2869 (v) (A) the community location governing authority gives its written consent to the
2870 variance; or

2871 (B) when written consent is not given by the community location governing authority,
2872 the commission finds that the applicant has established that:

2873 (I) there is substantial unmet public demand to consume alcohol in a public setting
2874 within the geographic boundary of the local authority in which the on-premise banquet license
2875 premises is to be located;

2876 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2877 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise
2878 banquet license; and

2879 (III) there is no reasonably viable alternative location within the geographic boundary
2880 of the local authority in which the on-premise banquet license premises is to be located for
2881 establishing an on-premise banquet license to satisfy the unmet demand described in
2882 Subsection (6)(b)(v)(B)(I).

2883 (c) With respect to the establishment of an on-premise banquet license, the
2884 commission may authorize a variance that reduces the proximity requirement of Subsection
2885 (6)(a)(ii) if:

2886 (i) the community location at issue is:
2887 (A) a public library; or
2888 (B) a public park;
2889 (ii) the local authority grants its written consent to the variance;
2890 (iii) the commission finds that alternative locations for establishing an on-premise
2891 banquet license in the community are limited;
2892 (iv) a public hearing is held in the city, town, or county, and where practical in the
2893 neighborhood concerned;
2894 (v) after giving full consideration to all of the attending circumstances and the policies
2895 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2896 on-premise banquet license would not be detrimental to the public health, peace, safety, and
2897 welfare of the community; and
2898 (vi) (A) the community location governing authority gives its written consent to the
2899 variance; or
2900 (B) when written consent is not given by the community location governing authority,
2901 the commission finds that the applicant has established that:
2902 (I) there is substantial unmet public demand to consume alcohol in a public setting
2903 within the geographic boundary of the local authority in which the on-premise banquet license
2904 premises is to be located;
2905 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2906 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise
2907 banquet license; and
2908 (III) there is no reasonably viable alternative location within the geographic boundary
2909 of the local authority in which the on-premise banquet license premises is to be located for
2910 establishing an on-premise banquet license to satisfy the unmet demand described in
2911 Subsection (6)(c)(vi)(B)(I).
2912 (d) With respect to the premises of any on-premise banquet license [~~issued~~] granted by
2913 the commission that undergoes a change of ownership, the commission may waive or vary the

2914 proximity requirements of Subsection (6)(a) in considering whether to grant an on-premise
2915 banquet license to the new owner of the premises if:

2916 (i) (A) the premises previously received a variance reducing the proximity requirement
2917 of Subsection (6)(a)(i); or

2918 (B) the premises received a variance reducing the proximity requirement of Subsection
2919 (6)(a)(ii) on or before May 4, 2008; or

2920 (ii) a variance from proximity requirements was otherwise allowed under this title.

2921 (e) The 600 foot limitation described in Subsection (6)(a)(i) is measured from the
2922 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
2923 the property boundary of the community location.

2924 (7) (a) Nothing in this section prevents the commission from considering the
2925 proximity of any educational, religious, and recreational facility, or any other relevant factor in
2926 reaching a decision on a proposed location.

2927 (b) For purposes of this Subsection (7), "educational facility" includes:

2928 (i) a nursery school;

2929 (ii) an infant day care center; and

2930 (iii) a trade and technical school.

2931 (8) (a) As used in this Subsection (8), "grandfathered facility" means a facility:

2932 (i) for which the commission granted an on-premise banquet license that is in effect on
2933 May 11, 2009, on the basis that the facility is a convention center; and

2934 (ii) that no longer qualifies as a convention center under Subsection (1)(a)(ii) solely
2935 because it is in total less than 30,000 square feet.

2936 (b) Notwithstanding Subsection (1)(a)(ii), the on-premise banquet license applicable
2937 to a grandfathered facility may be renewed until October 31, 2011, if the on-premise banquet
2938 license is qualified for the on-premise banquet license except for the requirement of
2939 Subsection (1)(a)(ii)(A).

2940 Section 22. Section **32A-4-402** is amended to read:

2941 **32A-4-402. Application and renewal requirements.**

2942 (1) (a) A person seeking an on-premise banquet license under this part shall file a
2943 written application with the department, in a form prescribed by the department. The
2944 application shall be accompanied by:

- 2945 (i) a nonrefundable \$250 application fee;
- 2946 (ii) an initial license fee of \$500, which is refundable if a license is not granted;
- 2947 (iii) written consent of the local authority;
- 2948 (iv) a copy of the applicant's current business license;
- 2949 (v) evidence of proximity to any community location, with proximity requirements
2950 being governed by Section 32A-4-401;
- 2951 (vi) a bond as specified by Section 32A-4-405;
- 2952 (vii) a description or floor plan and boundary map of the premises, where appropriate,
2953 of the on-premise banquet license applicant's location, designating:
 - 2954 (A) the location at which the on-premise banquet license applicant proposes that
2955 alcoholic beverages be stored; and
 - 2956 (B) the designated locations on the premises of the applicant from which the
2957 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
2958 consumed;
- 2959 (viii) evidence that the on-premise banquet license applicant is carrying public
2960 liability insurance in an amount and form satisfactory to the department;
- 2961 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
2962 insurance coverage of at least [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~]
2963 \$2,000,000 in the aggregate;
- 2964 (x) a signed consent form stating that the on-premise banquet license applicant will
2965 permit any authorized representative of the commission, department, or any law enforcement
2966 officer unrestricted right to enter the on-premise banquet premises;
- 2967 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
2968 company, proper verification evidencing that the person or persons signing the on-premise
2969 banquet license application are authorized to so act on behalf of the partnership, corporation,

2970 or limited liability company; and

2971 (xii) any other information the commission or department may require.

2972 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii),

2973 (iv), and (vi) if the applicant is:

2974 (i) a state agency; or

2975 (ii) a political subdivision of the state including:

2976 (A) a county; or

2977 (B) a municipality.

2978 (2) Additional locations in or on the premises of an on-premise banquet license

2979 applicant's business from which the on-premise banquet license applicant may propose that

2980 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's

2981 original application may be approved by the department upon proper application, in

2982 accordance with guidelines approved by the commission.

2983 (3) (a) [~~AH~~] An on-premise banquet [~~licenses expire~~] license expires on October 31 of

2984 each year.

2985 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that

2986 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed

2987 renewal application to the department no later than September 30.

2988 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2989 (A) a state agency; or

2990 (B) a political subdivision of the state including:

2991 (I) a county; or

2992 (II) a municipality.

2993 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

2994 the license effective on the date the existing license expires.

2995 (d) A renewal application shall be in a form as prescribed by the department.

2996 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may

2997 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to

2998 immediately notify the department of any change in:

2999 (a) ownership of the licensee;

3000 (b) for a corporate owner, the:

3001 (i) corporate officers or directors; or

3002 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3003 corporation; or

3004 (c) for a limited liability company:

3005 (i) managers; or

3006 (ii) members owning at least 20% of the limited liability company.

3007 Section 23. Section **32A-4a-101** is enacted to read:

3008 **CHAPTER 4a. RESORT LICENSE ACT**

3009 **Part 1. General Provisions**

3010 **32A-4a-101. Title.**

3011 This chapter is known as the "Resort License Act."

3012 Section 24. Section **32A-4a-102** is enacted to read:

3013 **32A-4a-102. Definitions.**

3014 As used in this chapter:

3015 (1) "Boundary of a resort building" means the physical boundary of the land
3016 reasonably related to a resort building and any structure or improvement to that land as
3017 determined by the commission.

3018 (2) "Dwelling" means a portion of a resort building:

3019 (a) owned by one or more individuals;

3020 (b) that is used or designated for use as a residence by one or more persons; and

3021 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
3022 consecutive days by a person who uses it for a residence.

3023 (3) "Engaged in the management of the resort" may be defined by the commission by
3024 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3025 (4) "Invitee" means an individual who in accordance with Subsection 32A-4a-305(3)

- 3026 is authorized to use a resort spa by a host who is:
- 3027 (a) a resident; or
- 3028 (b) a public customer.
- 3029 (5) "Provisions applicable to a sublicense" means:
- 3030 (a) for a restaurant sublicense, Chapter 4, Part 1, Restaurant Liquor Licenses;
- 3031 (b) for a limited restaurant sublicense, Chapter 4, Part 3, Limited Restaurant Licenses;
- 3032 (c) for an on-premise banquet sublicense, Chapter 4, Part 4, On-Premise Banquet
- 3033 License;
- 3034 (d) for a resort spa sublicense, Chapter 4a, Part 3, Resort Spa Sublicense;
- 3035 (e) for a club sublicense, Chapter 5, Club Licenses; and
- 3036 (f) for an on-premise beer retailer sublicense, Chapter 10, Beer Retailer Licenses.
- 3037 (6) "Public customer" means an individual who holds a customer card in accordance
- 3038 with Subsection 32A-4a-305(4).
- 3039 (7) "Resident" means an individual who:
- 3040 (a) owns a dwelling located within a resort building; or
- 3041 (b) rents lodging accommodations for 30 consecutive days or less from:
- 3042 (i) an owner of a dwelling described in Subsection (7)(a); or
- 3043 (ii) the resort licensee.
- 3044 (8) "Resort" means a location:
- 3045 (a) on which is located one resort building; and
- 3046 (b) that is affiliated with a ski area that physically touches the boundary of the resort
- 3047 building.
- 3048 (9) "Resort building" means a building:
- 3049 (a) that is primarily operated for the purpose of providing dwellings or lodging
- 3050 accommodations;
- 3051 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;
- 3052 (c) that consists of at least 400,000 square feet:
- 3053 (i) including only the building itself; and

3054 (ii) not including areas such as above ground surface parking; and
3055 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
3056 dwelling owned by a person other than the resort licensee.
3057 (10) "Resort spa" means a spa, as defined by rule by the commission made in
3058 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is within the
3059 boundary of a resort building.

3060 (11) "Sublicense" means:
3061 (a) a restaurant sublicense;
3062 (b) a limited restaurant sublicense;
3063 (c) an on-premise banquet sublicense;
3064 (d) a resort spa sublicense;
3065 (e) a club sublicense; or
3066 (f) an on-premise beer retailer sublicense.

3067 (12) "Sublicense premises" means a building, enclosure, room, or equipment used
3068 pursuant to a sublicense in connection with the sale, storage, service, furnishing, or
3069 consumption of an alcoholic product, unless otherwise defined in this title or in the rules
3070 adopted by the commission in accordance with Title 63G, Chapter 3, Utah Administrative
3071 Rulemaking Act.

3072 Section 25. Section **32A-4a-201** is enacted to read:

3073 **Part 2. Licensing**

3074 **32A-4a-201. Commission's power to license a resort -- Limitations.**

3075 (1) (a) The commission may grant to a person a resort license for the purpose of
3076 allowing the storage, sale, service, and consumption of an alcoholic beverage in connection
3077 with a resort designated in the resort license if the person operates at least four sublicenses
3078 under the resort license.

3079 (b) A resort license shall:
3080 (i) consist of:
3081 (A) a general resort license; and

3082 (B) the four or more sublicenses; and
3083 (ii) designate the boundary of the resort building.
3084 (c) This chapter does not prohibit an alcoholic beverage on the boundary of the resort
3085 building to the extent otherwise permitted by this title.
3086 (d) The commission may not grant a sublicense that is separate from a resort license.
3087 (2) (a) The total number of resort licenses may not at any time aggregate more than
3088 four.
3089 (b) The commission may not include a sublicense in determining whether or not the
3090 total number of licenses granted under the provisions applicable to the sublicense aggregate
3091 more than a number calculated by dividing the population of the state by the number specified
3092 in the provisions applicable to the sublicense.
3093 (c) Notwithstanding Subsection (2)(b), the commission may not grant to a person a
3094 license under the provisions applicable to a sublicense that on May 11, 2009, was not
3095 available because the sublicense was included in determining if the total number of licenses
3096 granted under the provisions applicable to the sublicense aggregate more than the number
3097 calculated by dividing the population of the state by the number specified in the provisions
3098 applicable to the sublicense.
3099 (d) By no later than the November 2009 interim meeting of the Business and Labor
3100 Interim Committee, the department shall:
3101 (i) report to the Business and Labor Interim Committee the number and types of
3102 sublicenses under a resort license granted by the commission as of September 30, 2009; and
3103 (ii) recommend legislation to adjust the numbers in the provisions applicable to
3104 sublicenses to reflect the number of sublicenses that because of the issuance of a resort license
3105 are not included in determining whether or not the total number of licenses granted under the
3106 provisions applicable to a sublicense aggregate more than a number calculated by dividing the
3107 population of the state by the number specified in the provisions applicable to the sublicense.
3108 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), a resort building may not
3109 be granted if the resort building is:

3110 (i) within 600 feet of a community location, as measured by the method in Subsection
3111 (3)(e); or

3112 (ii) within 200 feet of a community location, measured in a straight line from the
3113 nearest entrance of the proposed outlet to the nearest property boundary of the community
3114 location.

3115 (b) With respect to the establishment of a resort license, the commission may
3116 authorize a variance to reduce the proximity requirement of Subsection (3)(a)(i) if:

3117 (i) the local authority grants its written consent to the variance;

3118 (ii) the commission finds that alternative locations for establishing a resort license in
3119 the community are limited;

3120 (iii) the variance is authorized after a public hearing is held in the city, town, or
3121 county, and where practical in the neighborhood concerned;

3122 (iv) after giving full consideration to all of the attending circumstances and the
3123 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
3124 establishing the resort license would not be detrimental to the public health, peace, safety, and
3125 welfare of the community; and

3126 (v) (A) the community location governing authority gives its written consent to the
3127 variance; or

3128 (B) when written consent is not given by the community location governing authority,
3129 the commission finds that the applicant has established that:

3130 (I) there is substantial unmet public demand to consume alcohol in a public setting
3131 within the geographic boundary of the local authority in which the resort building is to be
3132 located;

3133 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
3134 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a resort
3135 license; and

3136 (III) there is no reasonably viable alternative location within the geographic boundary
3137 of the local authority in which the resort building is to be located for establishing a resort

3138 license to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).
3139 (c) With respect to the establishment of a resort license, the commission may authorize
3140 a variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:
3141 (i) the community location at issue is:
3142 (A) a public library; or
3143 (B) a public park;
3144 (ii) the local authority grants its written consent to the variance;
3145 (iii) the commission finds that alternative locations for establishing a resort license in
3146 the community are limited;
3147 (iv) a public hearing is held in the city, town, or county, and where practical in the
3148 neighborhood concerned;
3149 (v) after giving full consideration to all of the attending circumstances and the policies
3150 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
3151 resort license would not be detrimental to the public health, peace, safety, and welfare of the
3152 community; and
3153 (vi) (A) the community location governing authority gives its written consent to the
3154 variance; or
3155 (B) when written consent is not given by the community location governing authority,
3156 the commission finds that the applicant has established that:
3157 (I) there is substantial unmet public demand to consume alcohol in a public setting
3158 within the geographic boundary of the local authority in which the resort building is to be
3159 located;
3160 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
3161 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of a resort
3162 license; and
3163 (III) there is no reasonably viable alternative location within the geographic boundary
3164 of the local authority in which the resort building is to be located for establishing a resort
3165 license to satisfy the unmet demand described in Subsection (3)(c)(vi)(B)(I).

3166 (d) With respect to a resort building of a resort license granted by the commission that
3167 undergoes a change of ownership, the commission may waive or vary the proximity
3168 requirements of Subsection (3)(a) in considering whether to grant a resort license to the new
3169 owner of the resort license if the resort license previously received a variance reducing the
3170 proximity requirement of Subsection (3)(a)(i).

3171 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
3172 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
3173 the property boundary of the community location.

3174 (4) (a) Nothing in this section prevents the commission from considering the
3175 proximity of an educational, religious, or recreational facility, or any other relevant factor in
3176 reaching a decision on a proposed location.

3177 (b) For purposes of this Subsection (4), "educational facility" includes:

3178 (i) a nursery school;

3179 (ii) an infant day care center; and

3180 (iii) a trade and technical school.

3181 Section 26. Section **32A-4a-202** is enacted to read:

3182 **32A-4a-202. Application and renewal requirements.**

3183 (1) A person seeking a resort license under this chapter shall file a written application
3184 with the department, in a form prescribed by the department. The application shall be
3185 accompanied by:

3186 (a) a nonrefundable \$250 application fee;

3187 (b) an initial license fee, which is refundable if a resort license is not granted,

3188 calculated as follows:

3189 (i) \$10,000 if four sublicenses are being applied for under the resort license; or

3190 (ii) if more than four sublicenses are being applied for under the resort license, the

3191 sum of:

3192 (A) \$10,000; and

3193 (B) \$2,000 for each sublicense in excess of four sublicenses for which the applicant is

3194 applying:
3195 (c) written consent of the local authority;
3196 (d) a copy of:
3197 (i) the applicant's current business license; and
3198 (ii) the current business license for each sublicense, if the business license is separate
3199 from the applicant's business license;
3200 (e) evidence:
3201 (i) of proximity of the resort building to any community location, with proximity
3202 requirements being governed by Section 32A-4a-201;
3203 (ii) that each of the four or more sublicense premises is entirely within the boundaries
3204 of the resort building; and
3205 (iii) that the building designated in the application as the resort building qualifies as a
3206 resort building as defined in Section 32A-4a-102;
3207 (f) a bond as specified by Section 32A-4a-205;
3208 (g) a description and boundary map of the resort building;
3209 (h) a description, floor plan, and boundary map of each sublicense premises
3210 designating:
3211 (i) any location at which the resort license applicant proposes that an alcoholic
3212 beverage be stored; and
3213 (ii) a designated location on the sublicense premises from which the resort license
3214 applicant proposes that an alcoholic beverage be sold or served and consumed;
3215 (i) evidence that the resort license applicant carries public liability insurance in an
3216 amount and form satisfactory to the department;
3217 (j) evidence that the resort license applicant carries dramshop insurance coverage
3218 equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to
3219 cover both the general resort license and each sublicense;
3220 (k) a signed consent form stating that the resort license applicant will permit any
3221 authorized representative of the commission, department, or any law enforcement officer

3222 unrestricted right to enter the boundary of the resort building and each sublicense premises;
3223 (l) if an applicant is a partnership, corporation, or limited liability company, proper
3224 verification evidencing that the one or more persons signing the resort license application are
3225 authorized to so act on behalf of the partnership, corporation, or limited liability company; and
3226 (m) any other information the commission or department may require.
3227 (2) An additional location in a sublicense premises of a resort license applicant's
3228 business from which the resort license applicant may propose that an alcoholic beverage may
3229 be stored, sold or served, or consumed, not included in the applicant's original application,
3230 may be approved by the department upon proper application.
3231 (3) (a) A resort license expires on October 31 of each year.
3232 (b) A resort licensee who wants to renew a resort license shall submit to the
3233 department by no later than September 30:
3234 (i) a renewal fee of \$1,000 for each sublicense under the resort license; and
3235 (ii) a completed renewal application.
3236 (c) A resort licensee's failure to meet a renewal requirement results in an automatic
3237 forfeiture of the resort license and each sublicense effective on the date the existing license
3238 expires.
3239 (d) A renewal application shall be in a form as prescribed by the department.
3240 (4) To ensure compliance with Subsection 32A-4a-401(14), the commission may
3241 suspend or revoke a resort license if the resort licensee fails to immediately notify the
3242 department of a change in:
3243 (a) ownership of the resort licensee;
3244 (b) for a corporate owner of a resort licensee, the:
3245 (i) corporate officers or directors; or
3246 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3247 corporation; or
3248 (c) for a limited liability company owner or a resort licensee:
3249 (i) managers; or

- 3250 (ii) members owning at least 20% of the limited liability company.
- 3251 Section 27. Section **32A-4a-203** is enacted to read:
- 3252 **32A-4a-203. Qualifications.**
- 3253 (1) (a) The commission may not grant a license to a person who is convicted of:
- 3254 (i) a felony under a federal or state law;
- 3255 (ii) a violation of a federal or state law or local ordinance concerning the sale,
- 3256 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
- 3257 beverage;
- 3258 (iii) a crime involving moral turpitude; or
- 3259 (iv) on two or more occasions within the five years before the day on which the resort
- 3260 license is granted, driving under the influence of alcohol, a drug, or the combined influence of
- 3261 alcohol and a drug.
- 3262 (b) For a partnership, corporation, or limited liability company, the proscription under
- 3263 Subsection (1)(a) applies if any of the following that will be engaged in the management of the
- 3264 resort is convicted of an offense described in Subsection (1)(a):
- 3265 (i) a partner;
- 3266 (ii) a managing agent;
- 3267 (iii) a manager;
- 3268 (iv) an officer;
- 3269 (v) a director;
- 3270 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
- 3271 the applicant corporation; or
- 3272 (vii) a member who owns at least 20% of the applicant limited liability company.
- 3273 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a
- 3274 supervisory or managerial capacity for the resort licensee or in relation to a sublicense is
- 3275 convicted of an offense described in Subsection (1)(a).
- 3276 (2) Subject to Section 32A-4a-501, the commission may immediately suspend or
- 3277 revoke a resort license or a sublicense, if after the day on which the resort license is granted, a

3278 person described in Subsection (1)(a), (b), or (c):

3279 (a) is found to have been convicted of an offense described in Subsection (1)(a) before
3280 the resort license is granted; or

3281 (b) on or after the day on which the resort license is granted:

3282 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3283 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined
3284 influence of alcohol and a drug; and

3285 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
3286 influence of alcohol and a drug within five years before the day on which the person is
3287 convicted of the offense described in Subsection (2)(b)(ii)(A).

3288 (3) Subject to Subsection 32A-4a-501, the director may take emergency action by
3289 immediately suspending the operation of a resort license or sublicense in accordance with Title
3290 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal
3291 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

3292 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
3293 or

3294 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
3295 a drug, or the combined influence of alcohol and a drug; and

3296 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined
3297 influence of alcohol and a drug within five years before the day on which the person is arrested
3298 on a charge described in Subsection (3)(b)(i).

3299 (4) (a) (i) The commission may not grant a resort license to a person who has had any
3300 type of license, agency, or permit granted under this title revoked within the three years before
3301 the day on which the application for a resort license is filed.

3302 (ii) The commission may not grant a resort license to an applicant that is a partnership,
3303 corporation, or limited liability company if a partner, managing agent, manager, officer,
3304 director, or stockholder who holds at least 20% of the total issued and outstanding stock of an
3305 applicant corporation, or member who owns at least 20% of an applicant limited liability

3306 company, will engage in the management of the resort, and is or was:

3307 (A) a partner or managing agent of a partnership that had any type of license, agency,
3308 or permit issued under this title revoked within three years prior to the day on which the
3309 application for the resort license is filed;

3310 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
3311 of the total issued and outstanding stock of a corporation that had any type of license, agency,
3312 or permit issued under this title revoked within three years before the day on which the
3313 application for the resort license is filed; or

3314 (C) a manager or member who owns or owned at least 20% of a limited liability
3315 company that had any type of license, agency, or permit issued under this title revoked within
3316 three years prior to the day on which the application for the resort license is filed.

3317 (b) The commission may not grant a resort license to an applicant that is a partnership,
3318 corporation, or limited liability company if any of the following who will engage in the
3319 management of the resort had any type of license, agency, or permit issued under this title
3320 revoked while acting in their individual capacity within three years before the day on which
3321 the application for the resort license is filed:

3322 (i) a partner or managing agent of the applicant partnership;

3323 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3324 total issued and outstanding stock of the applicant corporation; or

3325 (iii) a manager or member who owns at least 20% of the applicant limited liability
3326 company.

3327 (c) The commission may not grant a person acting in an individual capacity a resort
3328 license if that person was:

3329 (i) a partner or managing agent of a partnership that had any type of license, agency,
3330 or permit granted under this title revoked within three years prior to the day on which the
3331 application for the resort license is filed;

3332 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3333 total issued and outstanding stock of a corporation that had any type of license, agency, or

3334 permit issued under this title revoked within three years prior to the day on which the
3335 application for the resort license is filed; or

3336 (iii) a manager or member who owned at least 20% of the limited liability company
3337 that had any type of license, agency, or permit issued under this title revoked within three
3338 years prior to the day on which the application for the resort license is filed.

3339 (5) (a) The commission may not grant a minor a resort license.

3340 (b) The commission may not grant a resort license to an applicant that is a partnership,
3341 corporation, or limited liability company if any of the following is a minor:

3342 (i) a partner or managing agent of the applicant partnership;

3343 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3344 total issued and outstanding stock of the applicant corporation; or

3345 (iii) a manager or member who owns at least 20% of the applicant limited liability
3346 company.

3347 (6) Subject to Section 32A-4a-501, if a person to whom a resort license is granted
3348 under this chapter no longer possesses the qualifications required by this title for obtaining the
3349 resort license, the commission may suspend or revoke the resort license.

3350 (7) (a) A person employed to act in a supervisory or managerial capacity for a
3351 sublicense is subject to the qualification requirements in the provisions applicable to the
3352 sublicense.

3353 (b) If a person described under Subsection (7)(a) no longer possesses the qualifications
3354 required by this Subsection (7), the commission may suspend or revoke the sublicense that is
3355 part of the resort license.

3356 Section 28. Section **32A-4a-204** is enacted to read:

3357 **32A-4a-204. Commission and department duties before granting resort license.**

3358 (1) (a) Before the commission may grant a resort license, the department shall conduct
3359 an investigation, and may hold public hearings for the purpose of gathering information and
3360 making recommendations to the commission as to whether or not a resort license, including
3361 each sublicense, should be granted.

3362 (b) The department shall forward the information and recommendations described in
3363 Subsection (1)(a) to the commission to aid in the commission's determination.
3364 (2) Before granting a resort license, the commission shall:
3365 (a) determine that the applicant complies with all basic qualifications and
3366 requirements for making an application for a resort license as provided by Sections
3367 32A-4a-202 and 32A-4a-203;
3368 (b) determine that the application is complete;
3369 (c) consider, where appropriate, a location that the resort license applicant proposes to
3370 designate for use under the resort license or a sublicense, including:
3371 (i) the physical characteristics of the location such as:
3372 (A) the condition of the location;
3373 (B) square footage; and
3374 (C) parking availability; and
3375 (ii) operational factors such as:
3376 (A) tourist traffic;
3377 (B) demographics; and
3378 (C) population to be served;
3379 (d) consider the resort license applicant's ability to manage and operate a resort license
3380 and the ability of any individual who will act in a supervisory or managerial capacity for a
3381 sublicense, including:
3382 (i) past management experience;
3383 (ii) past alcohol license experience; and
3384 (iii) the type of management scheme to be employed by the resort license applicant;
3385 (e) consider the nature or type of:
3386 (i) the resort license applicant's business operation; and
3387 (ii) the business operation of each sublicense;
3388 (f) subject to Subsection (3), determine that each sublicense meets the requirements
3389 imposed under the provisions applicable to each sublicense; and

3390 (g) consider any other factor or circumstance the commission considers necessary.

3391 (3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a
3392 license under the provisions applicable to a sublicense, a sublicense of a resort license is not
3393 subject to:

3394 (i) a requirement to submit an application or renewal application that is separate from
3395 the resort license application;

3396 (ii) a requirement to carry public liability insurance or dramshop insurance coverage
3397 that is separate from that carried by the resort licensee; or

3398 (iii) post a bond that is separate from the bond posted by the resort licensee.

3399 (b) If a resort licensee seeks to add a sublicense after its resort license is granted, the
3400 resort licensee shall file with the department:

3401 (i) a nonrefundable \$250 application fee;

3402 (ii) an initial license fee of \$2,000, which is refundable if the sublicense is not granted;

3403 (iii) written consent of the local authority;

3404 (iv) a copy of:

3405 (A) the resort licensee's current business license; and

3406 (B) the current business license for the sublicense, if the business licensee is separate
3407 from the resort licensee's business license;

3408 (v) evidence that the sublicense premises is entirely within the boundary of the resort
3409 building;

3410 (vi) a description, floor plan, and boundary map of the sublicense premises

3411 designating:

3412 (A) a location at which the resort license applicant proposes that an alcoholic beverage
3413 be stored; and

3414 (B) a designated location on the sublicense premises from which the resort license
3415 applicant proposes that an alcoholic beverage be sold, dispensed, served, and consumed;

3416 (vii) evidence that the resort license applicant carries public liability insurance in an
3417 amount and form satisfactory to the department;

3418 (viii) evidence that the resort license applicant carries dramshop insurance coverage in
3419 the amount required by Section 32A-4a-202 that covers the sublicense to be added;

3420 (ix) a signed consent form stating that the resort licensee will permit any authorized
3421 representative of the commission, department, or any law enforcement officer unrestricted
3422 right to enter the sublicense premises;

3423 (x) if the resort licensee is a partnership, corporation, or limited liability company,
3424 proper verification evidencing that the one or more persons signing the sublicense application
3425 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
3426 and

3427 (xi) any other information the commission or department may require.

3428 Section 29. Section **32A-4a-205** is enacted to read:

3429 **32A-4a-205. Bond.**

3430 (1) (a) A resort licensee shall procure and post a cash or corporate surety bond payable
3431 to the department in the penal sum of \$25,000.

3432 (b) A resort licensee shall maintain the bond described in Subsection (1)(a) for as long
3433 as the resort licensee operates as a resort licensee.

3434 (c) A resort licensee is not required to have a separate bond for each sublicense, except
3435 that the aggregate of any bonds posted by the resort licensee shall cover each sublicense under
3436 the resort license.

3437 (2) A bond described in Subsection (1) shall be in a form approved by the attorney
3438 general, conditioned upon the resort licensee's faithful compliance with this title and the rules
3439 of the commission.

3440 (3) (a) If a bond described in Subsection (1) is canceled due to a resort licensee's
3441 negligence, the commission may assess a \$300 reinstatement fee.

3442 (b) No part of a bond described in Subsection (1) may be withdrawn:

3443 (i) during the period a resort license is in effect; or

3444 (ii) while a revocation proceeding is pending against the resort licensee that posts the
3445 bond.

3446 (c) A bond filed by a resort licensee may be forfeited if the resort license is revoked.

3447 Section 30. Section **32A-4a-301** is enacted to read:

3448 **Part 3. Resort Spa Sublicense**

3449 **32A-4a-301. Commission's power to grant resort spa sublicense -- Limitations.**

3450 (1) Before a resort spa may sell or allow the consumption of an alcoholic beverage on
3451 the resort spa sublicense premises, a resort licensee or an applicant for a resort license shall
3452 first obtain a resort spa sublicense from the commission as provided in this part.

3453 (2) The commission may grant a resort spa sublicense for the purpose of establishing a
3454 resort spa outlet within the boundary of a resort building for the storage, sale, and
3455 consumption of liquor on premises operated as a resort spa.

3456 (3) The resort spa sublicense premises must fall entirely within the boundary of a
3457 resort building.

3458 Section 31. Section **32A-4a-302** is enacted to read:

3459 **32A-4a-302. Application and renewal requirements.**

3460 (1) A person seeking a resort spa sublicense under this part may not file a written
3461 application with the department that is separate from the application of the resort license,
3462 unless the resort spa sublicense is being sought after the granting of a resort license.

3463 (2) If a resort licensee seeks to add a resort spa sublicense after its resort license is
3464 granted, the resort licensee shall in accordance with Subsection 32A-4a-204(3) file a written
3465 application with the department, in a form prescribed by the department. The application shall
3466 be accompanied by:

3467 (a) a nonrefundable \$250 application fee;

3468 (b) an initial license fee of \$2,000, which is refundable if the resort spa sublicense is
3469 not granted;

3470 (c) written consent of the local authority;

3471 (d) a copy of:

3472 (i) the resort licensee's current business license; and

3473 (ii) a business license for the resort spa, if the business license is separate from the

3474 resort licensee's business license;

3475 (e) evidence that the resort spa sublicense premises are entirely within the boundary of
3476 a resort building;

3477 (f) a floor or similar plan of the resort spa, including consumption areas and the area
3478 where the resort licensee proposes to keep, store, and sell liquor;

3479 (g) evidence that the resort licensee carries public liability insurance in an amount and
3480 form satisfactory to the department;

3481 (h) evidence that the resort licensee's dramshop insurance coverage required under
3482 Section 32A-4a-202 covers the resort spa sublicense;

3483 (i) a signed consent form stating that the resort licensee will permit any authorized
3484 representative of the commission, department, or any law enforcement officer unrestricted
3485 right to enter the resort spa sublicense premises;

3486 (j) if an applicant is a partnership, corporation, or limited liability company, proper
3487 verification evidencing that the person or persons signing the application are authorized to so
3488 act on behalf of the partnership, corporation, or limited liability company; and

3489 (k) any other information the commission or department may require.

3490 (3) (a) A resort spa sublicense expires on October 31 of each year.

3491 (b) A resort licensee desiring to renew the resort licensee's resort spa sublicense shall
3492 renew the resort spa sublicense as part of renewing the resort license.

3493 (c) Failure to meet the renewal requirements for a resort license results in an automatic
3494 forfeiture of the resort spa sublicense effective on the date the resort license expires.

3495 (d) A renewal application shall be in a form as prescribed by the department.

3496 (4) To ensure compliance with Subsection 32A-4a-305(30), the commission may
3497 suspend or revoke a resort spa sublicense if the resort licensee does not immediately notify the
3498 department of a change described in Subsection 32A-4a-202(4).

3499 Section 32. Section **32A-4a-303** is enacted to read:

3500 **32A-4a-303. Qualifications.**

3501 (1) A person employed to act in a supervisory or managerial capacity for the resort spa

3502 sublicense is subject to qualification requirements of Section 32A-4a-203.

3503 (2) If a person no longer possesses the qualifications required by Section 32A-4a-203
3504 for obtaining the resort license or resort spa sublicense, the commission may suspend or
3505 revoke the resort spa sublicense that is part of the resort license.

3506 Section 33. Section **32A-4a-304** is enacted to read:

3507 **32A-4a-304. Commission and department duties before granting a resort spa**
3508 **sublicense.**

3509 (1) (a) If a resort licensee seeks to add a resort spa sublicense after the resort license is
3510 granted, before the commission may grant a resort spa sublicense, the department shall
3511 conduct an investigation and may hold public hearings for the purpose of gathering
3512 information and making recommendations to the commission as to whether or not the resort
3513 spa sublicense should be granted.

3514 (b) The department shall forward the information and recommendations described in
3515 Subsection (1)(a) to the commission to aid in the commission's determination.

3516 (2) Before granting a resort spa sublicense, the commission shall:

3517 (a) determine that:

3518 (i) the resort licensee seeking the resort spa sublicense has complied with all basic
3519 qualifications and requirements for making application for a resort spa sublicense as provided
3520 by Sections 32A-4a-302 and 32A-4a-303; and

3521 (ii) the application is complete;

3522 (b) consider the location within which the resort spa outlet is located, including:

3523 (i) physical characteristics such as:

3524 (A) condition of the location;

3525 (B) square footage; and

3526 (C) parking availability; and

3527 (ii) operational factors such as:

3528 (A) tourist traffic;

3529 (B) demographics;

- 3530 (C) population to be served; and
- 3531 (D) the extent of and proximity to any community location;
- 3532 (c) consider the resort licensee's ability to manage and operate a resort spa sublicense
3533 and the ability of any person who will act in a supervisory or managerial capacity for the resort
3534 spa to manage and operate a resort spa license, including:
- 3535 (i) management experience;
- 3536 (ii) past retail liquor experience; and
- 3537 (iii) the type of management scheme employed by the resort spa;
- 3538 (d) consider the nature or type of resort spa operation under the proposed resort spa
3539 sublicense, including:
- 3540 (i) the type of menu items offered and emphasized;
- 3541 (ii) whether the resort spa emphasizes service to an adult clientele or minors;
- 3542 (iii) the hours of operation;
- 3543 (iv) the seating capacity of the resort spa; and
- 3544 (v) the gross sales of food items; and
- 3545 (e) consider any other factors or circumstances the commission considers necessary.
- 3546 Section 34. Section **32A-4a-305** is enacted to read:
- 3547 **32A-4a-305. Operational restrictions.**
- 3548 (1) (a) A person granted a resort license and the employees and management personnel
3549 of the resort licensee or otherwise related to a resort spa sublicense shall comply with this title,
3550 the rules of the commission, and the conditions and requirements in this section in the
3551 operation of the resort spa.
- 3552 (b) Subject to Section 32A-4a-502, failure to comply with this section may result in a
3553 suspension or revocation of the resort license or resort spa sublicense, or other disciplinary
3554 action taken against individual employees or management personnel.
- 3555 (2) Subject to the other provisions of this section, a person operating under a resort spa
3556 sublicense may not sell an alcoholic beverage to or allow a person to be admitted to or use the
3557 resort spa sublicense premises other than:

- 3558 (a) a resident;
- 3559 (b) a public customer who holds a valid customer card issued under Subsection (4); or
- 3560 (c) an invitee.
- 3561 (3) A person operating under a resort spa sublicense may allow an individual to be
- 3562 admitted to or use the resort spa sublicense premises as an invitee subject to the following
- 3563 conditions:
- 3564 (a) the individual must be previously authorized by one of the following who agrees to
- 3565 host the individual as an invitee into the resort spa:
- 3566 (i) a resident; or
- 3567 (ii) a public customer who holds a valid customer card issued under Subsection (4);
- 3568 (b) the individual has only those privileges derived from the individual's host for the
- 3569 duration of the invitee's visit to the resort spa; and
- 3570 (c) a resort licensee, resort spa, or an employee of the resort licensee or resort spa may
- 3571 not enter into an agreement or arrangement with a resident or public customer to
- 3572 indiscriminately host a member of the general public into the resort spa as an invitee.
- 3573 (4) A person operating under a resort spa sublicense may issue a customer card to
- 3574 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
- 3575 under the following conditions:
- 3576 (a) the resort spa may not issue a customer card for a time period that exceeds three
- 3577 weeks;
- 3578 (b) the resort spa shall assess a fee to a public customer for a customer card;
- 3579 (c) the resort spa may not issue a customer card to a minor; and
- 3580 (d) a public customer may not host more than seven invitees at one time.
- 3581 (5) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that an
- 3582 expense ledger or record is maintained showing in detail:
- 3583 (i) quarterly expenditures for the resort spa separated by payments for:
- 3584 (A) malt or brewed beverage;
- 3585 (B) liquor;

3586 (C) food;
3587 (D) set-ups; and
3588 (E) any other item required by the department; and
3589 (ii) sales made separately for:
3590 (A) malt or brewed beverages;
3591 (B) liquor;
3592 (C) food;
3593 (D) set-ups; and
3594 (E) any other item required by the department.
3595 (b) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
3596 record required by this Subsection (5) is kept:
3597 (i) in a form approved by the department; and
3598 (ii) current for each three-month period.
3599 (c) An expenditure under resort spa sublicense shall be supported by:
3600 (i) a delivery ticket;
3601 (ii) an invoice;
3602 (iii) a receipted bill;
3603 (iv) a canceled check;
3604 (v) a petty cash voucher; or
3605 (vi) other sustaining datum or memorandum.
3606 (d) In addition to a ledger or record required by Subsection (5)(a), for purposes of the
3607 resort spa sublicense, a resort licensee shall ensure that accounting and other records and
3608 documents as the department may require are maintained.
3609 (e) A resort licensee or an employee acting for the resort licensee or under a resort spa
3610 sublicense, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an
3611 entry in a book of account or other document for a resort spa sublicense required to be made,
3612 maintained, or preserved by this title or the rules of the commission for the purpose of
3613 deceiving the commission, the department, or an official or employee of the commission or

3614 department, is subject to:

3615 (i) the suspension or revocation of the resort spa sublicense; and

3616 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3617 (f) (i) For purposes of the resort spa sublicense, the resort licensee shall ensure that a

3618 record required by this section is kept and maintained, and a book, record, receipt, or

3619 disbursement is maintained or used for the resort spa sublicense:

3620 (A) as the department requires; and

3621 (B) for a minimum period of three years.

3622 (ii) A record, book, receipt, or disbursement is subject to inspection by an authorized

3623 representative of the commission and the department.

3624 (iii) A resort licensee shall allow the department, through an auditor or examiner of the

3625 department, to audit the records for a resort spa sublicense at the times the department

3626 considers advisable.

3627 (iv) The department shall audit the records for a resort spa sublicense at least once

3628 annually.

3629 (6) A resort licensee shall own or lease premises suitable for the resort spa's activities.

3630 (7) (a) A resort licensee may not maintain a premises in a manner that barricades or

3631 conceals the resort spa sublicense's operation.

3632 (b) A member of the commission, authorized department personnel, or a peace officer

3633 shall, upon presentation of credentials, be admitted immediately to a resort spa sublicense

3634 premises and permitted without hindrance or delay to inspect completely the entire resort spa

3635 sublicense premises and the books and records for the resort spa sublicense, at any time during

3636 which the resort spa sublicense is open for the transaction of business with a resident.

3637 (8) A resort spa must have food available at all times when an alcoholic beverage is

3638 sold, served, or consumed on the resort spa sublicense premises.

3639 (9) (a) Liquor may not be purchased for a resort spa sublicense except from a state

3640 store or package agency.

3641 (b) Liquor purchased from a state store or package agency may be transported by the

3642 resort licensee from the place of purchase to the resort spa sublicense premises.

3643 (c) Payment for liquor shall be made in accordance with rules established by the
3644 commission.

3645 (10) A person operating under a resort spa sublicense may sell or provide a primary
3646 spirituous liquor only in a quantity not to exceed 1.5 ounces per beverage dispensed through a
3647 calibrated metered dispensing system approved by the department in accordance with
3648 commission rules adopted under this title, except that:

3649 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3650 system if used as a secondary flavoring ingredient in a beverage subject to the following
3651 restrictions:

3652 (i) the secondary ingredient may be dispensed only in conjunction with the purchase
3653 of a primary spirituous liquor;

3654 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

3655 (iii) the resort licensee shall designate a location where flavorings are stored on the
3656 floor plan provided to the department; and

3657 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

3658 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3659 system if used:

3660 (i) as a flavoring on a dessert; and

3661 (ii) in the preparation of a flaming food dish, drink, or dessert; and

3662 (c) a person at a resort spa may have no more than:

3663 (i) 2.5 ounces of spirituous liquor at a time before the person; or

3664 (ii) two spirituous liquor drinks at a time before a resort spa patron, except that the
3665 resort spa patron may not have two spirituous liquor drinks before the resort spa patron if one
3666 of the spirituous liquor drinks consists only of the primary spirituous liquor for the other
3667 spirituous liquor drink.

3668 (11) (a) (i) Wine may be sold and served by the glass or an individual portion not to
3669 exceed five ounces per glass or individual portion.

3670 (ii) An individual portion may be served to a person in more than one glass as long as
3671 the total amount of wine does not exceed five ounces.

3672 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3673 Subsection (15)(c).

3674 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
3675 fixed by the commission to a table of four or more persons.

3676 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
3677 fixed by the commission to a table of less than four persons.

3678 (c) A wine service may be performed and a service charge assessed by a resort spa as
3679 authorized by commission rule for wine purchased at the resort spa.

3680 (12) (a) Heavy beer may be served in an original container not exceeding one liter at a
3681 price fixed by the commission.

3682 (b) A flavored malt beverage may be served in an original container not exceeding one
3683 liter at a price fixed by the commission.

3684 (c) A service charge may be assessed by the resort spa for heavy beer or a flavored
3685 malt beverage purchased at the resort spa.

3686 (13) (a) (i) Subject to Subsection (13)(a)(ii), a person operating under a resort spa
3687 sublicense may sell beer for on-premise consumption:

3688 (A) in an open container; and

3689 (B) on draft.

3690 (ii) Beer sold pursuant to Subsection (13)(a)(i) shall be in a size of container that does
3691 not exceed two liters, except that beer may not be sold to an individual in a size of container
3692 that exceeds one liter.

3693 (b) (i) A person operating under a resort spa sublicense who sells beer pursuant to
3694 Subsection (13)(a):

3695 (A) may do so without obtaining a separate on-premise beer retailer license from the
3696 commission; and

3697 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer

3698 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
3699 inconsistent with or less restrictive than the operational restrictions under this part.

3700 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3701 Licenses, required by Subsection (13)(b)(i), may result in a suspension or revocation of:

3702 (A) the resort spa sublicense; and

3703 (B) an alcoholic beverage license issued by a local authority.

3704 (14) An alcoholic beverage may not be stored, served, or sold in a place other than as
3705 designated in the resort licensee's application, unless the resort licensee first applies for and
3706 receives approval from the department for a change of location within the resort spa.

3707 (15) (a) A person may only make an alcoholic beverage purchase in the resort spa
3708 from and be served by a person employed, designated, and trained by the resort licensee or an
3709 agent of the resort license to sell, dispense, and serve an alcoholic beverage.

3710 (b) Notwithstanding Subsection (15)(a), a person who purchases bottled wine from an
3711 employee described in Subsection (15)(a) or carries bottled wine onto the resort spa sublicense
3712 premises pursuant to Subsection (22) may thereafter serve wine from the bottle to the person
3713 or others at the person's table.

3714 (c) An individual furnished an alcoholic beverage at a resort spa may have no more
3715 than two alcoholic beverages of any kind at a time before the individual, subject to the
3716 limitation of Subsection (10)(c)(ii).

3717 (16) The liquor storage area shall remain locked at all times other than those hours and
3718 days when liquor sales and service are authorized by law.

3719 (17) (a) An alcoholic beverage may only be consumed at a table or counter.

3720 (b) An alcoholic beverage may not be served to or consumed by a person at a bar.

3721 (18) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
3722 resort spa after 1 a.m. or before 10 a.m.

3723 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
3724 Licenses, for on-premise beer licenses.

3725 (c) (i) Notwithstanding Subsections (18)(a) and (b), a resort spa shall remain open for

- 3726 one hour after the resort spa ceases the sale and service of an alcoholic beverage during which
3727 time a person at the resort spa may finish consuming:
- 3728 (A) a single drink containing spirituous liquor;
3729 (B) a single serving of wine not exceeding five ounces;
3730 (C) a single serving of heavy beer;
3731 (D) a single serving of beer not exceeding 26 ounces; or
3732 (E) a single serving of a flavored malt beverage.
- 3733 (ii) A resort spa is not required to remain open:
3734 (A) after all persons have vacated the resort spa sublicense premises; or
3735 (B) during an emergency.
- 3736 (d) Between the hours of 2 a.m. and 10 a.m. a person operating under a resort spa
3737 sublicense may not allow a person to remain on the resort spa sublicense premises to consume
3738 an alcoholic beverage on the resort spa sublicense premises.
- 3739 (19) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
3740 (a) minor;
3741 (b) person actually, apparently, or obviously intoxicated;
3742 (c) known habitual drunkard; or
3743 (d) known interdicted person.
- 3744 (20) (a) (i) Liquor may be sold only at a price fixed by the commission.
3745 (ii) Liquor may not be sold at a discount price on any date or at any time.
3746 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
3747 beverage for the resort spa sublicense.
- 3748 (c) An alcoholic beverage may not be sold at a special or reduced price that
3749 encourages over consumption or intoxication.
- 3750 (d) The price of a single serving of a primary spirituous liquor shall be the same
3751 whether served as a single drink or in conjunction with another alcoholic beverage.
- 3752 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
3753 hours of the resort spa's business day such as a "happy hour."

3754 (f) More than one alcoholic beverage may not be sold or served for the price of a
3755 single alcoholic beverage.

3756 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or
3757 served during a set period for a fixed price.

3758 (h) A person operating under a resort spa sublicense may not engage in a promotion
3759 involving or offering a free alcoholic beverage to a person at the resort spa.

3760 (21) An alcoholic beverage may not be purchased for a person at the resort spa by:

3761 (a) the resort licensee; or

3762 (b) an employee or agent of the resort licensee or resort spa.

3763 (22) (a) A person may not bring onto the resort spa sublicense premises an alcoholic
3764 beverage for on-premise consumption, except that a person may bring, subject to the
3765 discretion of the resort licensee, bottled wine onto the resort spa sublicense premises for
3766 on-premise consumption.

3767 (b) Except as provided in Subsection (22)(a), a person operating under a resort spa
3768 sublicense including an officer, manager, employee, or agent of a resort spa or resort licensee
3769 may not allow a person to bring onto the resort spa sublicense premises an alcoholic beverage
3770 for consumption on the resort spa license premises.

3771 (c) If bottled wine is carried in by a person, the person shall deliver the wine to a
3772 server or other representative of the resort spa upon entering the resort spa.

3773 (d) A wine service may be performed and a service charge assessed by the resort spa
3774 as authorized by commission rule for wine carried in by a person.

3775 (23) (a) Except as provided in Subsection (23)(b), a person operating under a resort
3776 spa sublicense or an employee of that person may not permit a person to carry from the resort
3777 spa sublicense premises an open container that:

3778 (i) is used primarily for drinking purposes; and

3779 (ii) contains an alcoholic beverage.

3780 (b) A person may remove the unconsumed contents of a bottle of wine, if before
3781 removal, the bottle is recorked or recapped.

3782 (24) (a) A minor may not be admitted into, use, or be on:
3783 (i) the sublicense premises of a resort spa unless accompanied by a person 21 years of
3784 age or older; or
3785 (ii) a lounge or bar area, as defined by commission rule, of the resort spa sublicense
3786 premises.
3787 (b) (i) Except as provided in Subsection (24)(b)(ii), a resort licensee or a person
3788 operating under a resort spa sublicense may not employ a minor to:
3789 (A) sell, dispense, or handle an alcoholic beverage; or
3790 (B) work in a lounge or bar area of the resort spa sublicense premises.
3791 (ii) A resort licensee or a person operating under a resort spa sublicense may employ a
3792 minor who is at least 16 years of age to enter the sale at a cash register or other sales recording
3793 device, except that a minor may not work in a lounge or bar area of the resort spa sublicense
3794 premises.
3795 (25) An employee for a resort spa, while on duty, may not:
3796 (a) consume an alcoholic beverage; or
3797 (b) be intoxicated.
3798 (26) (a) A person operating under a resort spa sublicense shall have available on the
3799 resort spa sublicense premises for a person to review at the time that the customer requests it, a
3800 written alcoholic beverage price list or a menu containing the price of an alcoholic beverage
3801 sold or served by the resort spa including:
3802 (i) a set-up charge;
3803 (ii) a service charge; or
3804 (iii) a chilling fee.
3805 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
3806 may be stated in food or alcoholic beverage menus including:
3807 (i) a set-up charge;
3808 (ii) a service charge; or
3809 (iii) a chilling fee.

3810 (27) For purposes of the resort spa sublicense, the resort licensee shall ensure that the
3811 following are displayed in a prominent place in the resort spa:

3812 (a) the resort spa sublicense that is issued by the department;

3813 (b) a list of the types and brand names of liquor being served through its calibrated
3814 metered dispensing system; and

3815 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3816 drugs is a serious crime that is prosecuted aggressively in Utah."

3817 (28) A person operating under a resort spa sublicense may not on the resort spa
3818 sublicense premises:

3819 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3820 Chapter 10, Part 11, Gambling;

3821 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3822 Part 11, Gambling; or

3823 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
3824 requires the risking of something of value for a return or for an outcome when the return or
3825 outcome is based upon an element of chance, excluding the playing of an amusement device
3826 that confers only an immediate and unrecorded right of replay not exchangeable for value.

3827 (29) A resort spa sublicense may not be transferred from one location to another
3828 location, without prior written approval of the commission.

3829 (30) (a) A resort licensee, may not sell, transfer, assign, exchange, barter, give, or
3830 attempt in any way to dispose of the resort spa sublicense to another person, whether for
3831 monetary gain or not.

3832 (b) A resort spa sublicense has no monetary value for the purpose of any type of
3833 disposition.

3834 (31) A person operating under a resort spa sublicense or an employee of that person
3835 may not knowingly allow a person on the resort spa sublicense premises to, in violation of
3836 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
3837 Paraphernalia Act:

3838 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3839 58-37-2; or

3840 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3841 Section 58-37a-3.

3842 Section 35. Section **32A-4a-401** is enacted to read:

3843 **Part 4. Operational Requirements**

3844 **32A-4a-401. Operational restrictions for resort license.**

3845 (1) (a) A person granted a resort license and the employees and management personnel
3846 of the resort licensee including those operating under a sublicense shall comply with this title,
3847 the rules of the commission, and the conditions and requirements in this section.

3848 (b) Subject to Section 32A-4a-502, failure to comply with this section may result in a
3849 suspension or revocation of the resort license or a sublicense, or other disciplinary action taken
3850 against individual employees or management personnel.

3851 (2) (a) A resort licensee may not offer for sale, sell, serve, or otherwise furnish an
3852 alcoholic beverage except:

3853 (i) on a sublicense premises;

3854 (ii) pursuant to a permit issued under this title; or

3855 (iii) under a package agency agreement with the department, subject to Chapter 3,
3856 Package Agencies.

3857 (b) A resort licensee who offers for sale, sells, serves, or otherwise furnishes an
3858 alcoholic beverage as provided in Subsection (2)(a), shall offer for sale, sell, or furnish the
3859 alcoholic beverage:

3860 (i) if on a sublicense premises, in accordance with the operational requirements under
3861 the provisions applicable to the sublicense, except as provided in Section 32A-4a-402;

3862 (ii) if under a permit issued under this title, in accordance with the operational
3863 requirements under the provisions applicable to the permit; and

3864 (iii) if as a package agency, in accordance with the contract with the department and
3865 Chapter 3, Package Agencies.

3866 (3) A person involved in the sale or service of an alcoholic beverage under a resort
3867 license shall:

3868 (a) be under the supervision and direction of the resort licensee; and

3869 (b) complete the seminar provided for in Section 62A-15-401.

3870 (4) (a) A resort licensee may not purchase liquor except from a state store or package
3871 agency.

3872 (b) Liquor purchased by a resort licensee in accordance with this Subsection (4) may
3873 be transported by the resort licensee from the place of purchase to the boundary of the resort
3874 building.

3875 (c) A resort licensee shall pay for liquor in accordance with rules made by the
3876 commission.

3877 (5) An alcoholic beverage may not be stored, served, or sold in a place other than as
3878 designated in the resort licensee's application, except that an additional location in the
3879 boundary of the resort building may be approved in accordance with guidelines approved by
3880 the commission.

3881 (6) An alcoholic beverage storage area on the boundary of the resort building shall
3882 remain locked at all times other than those hours and days when alcoholic beverage sales are
3883 authorized by law.

3884 (7) A resort licensee may not engage in a public promotion involving or offering a free
3885 alcoholic beverage to the general public.

3886 (8) A resort licensee may not on the boundary of the resort building:

3887 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3888 Chapter 10, Part 11, Gambling;

3889 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
3890 Part 11, Gambling; or

3891 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
3892 requires the risking of something of value for a return or for an outcome when the return or
3893 outcome is based upon an element of chance, excluding the playing of an amusement device

3894 that confers only an immediate and unrecorded right of replay not exchangeable for value.

3895 (9) (a) A resort licensee shall maintain accounting and such other records and
3896 documents as the commission or department may require.

3897 (b) A resort licensee or person acting for the resort licensee, who knowingly forges,
3898 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other
3899 document of the resort licensee required to be made, maintained, or preserved by this title or
3900 the rules of the commission for the purpose of deceiving the commission, the department, or
3901 an official or employee of the commission or department, is subject to:

3902 (i) the suspension or revocation of the resort license; and

3903 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3904 (10) (a) Subject to Subsection (10)(b), a resort license shall operate in a manner so that
3905 at least 70% of the annual aggregate of the gross receipts related to the sale of food or
3906 beverages for the resort license and each of its sublicenses is from the sale of food, not
3907 including:

3908 (i) mix for an alcoholic beverage; and

3909 (ii) a charge in connection with the service of an alcoholic beverage.

3910 (b) In calculating the annual aggregate of the gross receipts described in Subsection
3911 (10)(a), a resort licensee is not required to include in the calculation monies from the sale of a
3912 bottle of wine by the retail licensee or under a sublicense in excess of \$250.

3913 (11) (a) Room service of an alcoholic beverage to a lodging accommodation of a resort
3914 licensee shall be provided in person by a resort licensee employee only to an adult occupant in
3915 the lodging accommodation.

3916 (b) An alcoholic beverage may not be left outside a lodging accommodation for
3917 retrieval by an occupant.

3918 (c) A resort licensee may only provide an alcoholic beverage for room service in a
3919 sealed container.

3920 (12) A resort licensee or an employee of the resort licensee may not knowingly allow a
3921 person on the boundary of the resort building to, in violation of Title 58, Chapter 37, Utah

3922 Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3923 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3924 58-37-2; or

3925 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3926 Section 58-37a-3.

3927 (13) A person may not transfer a resort license from one business location to another
3928 location without prior written approval of the commission.

3929 (14) (a) A resort licensee may not sell, transfer, assign, exchange, barter, give, or
3930 attempt in any way to dispose of the license to another person, whether for monetary gain or
3931 not.

3932 (b) A resort license has no monetary value for the purpose of any type of disposition.

3933 (15) (a) A resort licensee may not close or cease operation of a resort licensee for a
3934 period longer than 240 hours, unless:

3935 (i) the resort licensee notifies the department in writing at least seven days before the
3936 day on which the resort licensee closes or ceases operation; and

3937 (ii) the closure or cessation of operation is first approved by the department.

3938 (b) Notwithstanding Subsection (15)(a), in the case of emergency closure, the resort
3939 licensee shall immediately notify the department by telephone.

3940 (c) (i) The department may authorize a closure or cessation of operation for a period
3941 not to exceed 60 days.

3942 (ii) The department may extend the initial period an additional 30 days upon:

3943 (A) written request of the resort licensee; and

3944 (B) a showing of good cause.

3945 (iii) A closure or cessation of operation may not exceed a total of 90 days without
3946 commission approval.

3947 (d) The notice required by Subsection (15)(a) shall include:

3948 (i) the dates of closure or cessation of operation;

3949 (ii) the reason for the closure or cessation of operation; and

3950 (iii) the date on which the resort licensee will reopen or resume operation.
3951 (e) Failure of the resort licensee to provide notice and to obtain department
3952 authorization before closure or cessation of operation results in an automatic forfeiture of:
3953 (i) the resort license; and
3954 (ii) the unused portion of the resort license fee for the remainder of the license year
3955 effective immediately.

3956 (f) Failure of the resort licensee to reopen or resume operation by the approved date
3957 results in an automatic forfeiture of:
3958 (i) the resort licence; and
3959 (ii) the unused portion of the resort license fee for the remainder of the license year.

3960 Section 36. Section **32A-4a-402** is enacted to read:

3961 **32A-4a-402. Operational restrictions for a sublicense.**

3962 (1) A person operating under a sublicense is subject to the operational restrictions
3963 under the provisions applicable to the sublicense except that, notwithstanding a requirement in
3964 the provisions applicable to the sublicense, a person operating under the sublicense is not
3965 subject to a requirement that a certain percentage of the gross receipts for the sublicense be
3966 from the sale of food, except to the extent that the gross receipts for the sublicense are
3967 included in calculating the percentages under Subsection 32A-4a-401(10).

3968 (2) Subject to Section 32A-4a-502, for purposes of interpreting an operational
3969 restriction imposed by the provisions applicable to a sublicense:

3970 (a) a requirement imposed on a person operating under a sublicense applies to the
3971 resort licensee; and

3972 (b) a requirement imposed on an employee or agent of a person operating under a
3973 sublicense applies to an employee or agent of the resort licensee.

3974 Section 37. Section **32A-4a-501** is enacted to read:

3975 **Part 5. Enforcement**

3976 **32A-4a-501. Enforcement of qualifications for a resort license or sublicense.**

3977 (1) The commission or department may not take an action described in Subsection (2)

3978 with regard to a resort license unless the person who is found not to meet the qualifications of
3979 Section 32A-4a-203 is one of the following who is engaged in the management of the resort:
3980 (a) a partner;
3981 (b) a managing agent;
3982 (c) a manager;
3983 (d) an officer;
3984 (e) a director;
3985 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of
3986 the applicant corporation;
3987 (g) a member who owns at least 20% of the applicant limited liability company; or
3988 (h) a person employed to act in a supervisory or managerial capacity for the resort
3989 licensee.
3990 (2) Subsection (1) applies to:
3991 (a) the commission immediately suspending or revoking a resort license, if after the
3992 day on which the resort license is granted, a person described in Subsection 32A-4a-203(1)(a),
3993 (b), or (c):
3994 (i) is found to have been convicted of an offense described in Subsection
3995 32A-4a-203(1)(a) before the resort license is granted; or
3996 (ii) on or after the day on which the resort license is granted:
3997 (A) is convicted of an offense described in Subsection 32A-4a-203(1)(a)(i), (ii), or
3998 (iii); or
3999 (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined
4000 influence of alcohol and a drug; and
4001 (II) was convicted of driving under the influence of alcohol, a drug, or the combined
4002 influence of alcohol and a drug within five years before the day on which the person is
4003 convicted of the offense described in Subsection 32A-4a-203(2)(b)(ii)(A);
4004 (b) the director taking an emergency action by immediately suspending the operation
4005 of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for

4006 the period during which the criminal matter is being adjudicated if a person described in
4007 Subsection 32A-4a-203(1)(a), (b), or (c):

4008 (i) is arrested on a charge for an offense described in Subsection 32A-4a-203(1)(a)(i),
4009 (ii), or (iii); or

4010 (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,
4011 a drug, or the combined influence of alcohol and a drug; and

4012 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
4013 influence of alcohol and a drug within five years before the day on which the person is arrested
4014 on a charge described in Subsection (2)(b)(i); and

4015 (c) the commission suspending or revoking a resort license because a person to whom
4016 a resort license is granted under this chapter no longer possesses the qualifications required by
4017 this title for obtaining the resort license.

4018 (3) This section does not prevent the commission from suspending or revoking a
4019 sublicense that is part of a resort license if a person employed to act in a supervisory or
4020 managerial capacity for a sublicense no longer meets the qualification requirements in the
4021 provisions applicable to the sublicense.

4022 Section 38. Section **32A-4a-502** is enacted to read:

4023 **32A-4a-502. Enforcement of operational restrictions for a resort license or**
4024 **sublicense.**

4025 (1) (a) Except as provided in Subsection (2) and in addition to Subsection (3), failure
4026 by a person described in Subsection (1)(b) to comply with this chapter or an operational
4027 restriction under a provision applicable to a sublicense may result in:

4028 (i) a suspension or revocation of the resort license;

4029 (ii) a fine or other administrative sanction permitted under this title; or

4030 (iii) other disciplinary action taken against an individual employee or management
4031 personnel of a resort licensee.

4032 (b) This Subsection (1) applies to:

4033 (i) a resort licensee;

- 4034 (ii) a person operating under a sublicense;
4035 (iii) an employee of a resort licensee or other person operating under a sublicense;
4036 (iv) an agent of a resort licensee or other person operating under a sublicense; or
4037 (v) personnel management of a resort licensee or other person operating under a
4038 sublicense.
- 4039 (2) (a) Notwithstanding the other provisions of this chapter and Section 32A-1-119, if
4040 the failure to comply with this chapter described in Subsection (1) relates to an offer to sell,
4041 sell, service, or furnishing of an alcoholic beverage on a sublicense premises, a resort licensee
4042 or an individual member of the resort licensee's management personnel is subject to a sanction
4043 described in Subsection (1), only if the commission finds that:
- 4044 (i) during the three years before the day on which the commission makes the finding,
4045 there is three or more disciplinary proceedings against any person operating under a sublicense
4046 of the resort licensee for failure to comply with an operational restriction applicable to the
4047 sublicense; and
- 4048 (ii) the resort licensee has not taken reasonable steps to prevent persons operating
4049 under a sublicense of the resort licensee from failing to comply with operational restrictions
4050 applicable to the sublicense.
- 4051 (b) This Subsection (2) applies if the three or more disciplinary proceedings described
4052 in Subsection (2)(a) are against:
- 4053 (i) the same person operating under a sublicense of the resort licensee; or
4054 (ii) two or more different persons operating under a sublicense of the resort licensee.
- 4055 (3) An operational restriction applicable to a person operating under a sublicense is
4056 enforced as provided by the provisions applicable to the sublicense.
- 4057 Section 39. Section **32A-4a-503** is enacted to read:
- 4058 **32A-4a-503. Enforcement of Nuisance Licensee Act.**
- 4059 Chapter 15a, Nuisance Licensee Act, applies to a resort license only if three or more of
4060 the sublicenses of the resort license have not been renewed under Chapter 15a, Nuisance
4061 Licensee Act, within three years from the day on which a resort licensee applies for the

4062 renewal of its resort license.

4063 Section 40. Section **32A-5-101** is amended to read:

4064 **CHAPTER 5. CLUB LICENSES**

4065 **32A-5-101. Commission's power to license clubs -- Limitations.**

4066 (1) As used in this chapter:

4067 (a) "Club license" means a license granted under this chapter.

4068 (b) "Club licensee" means a person granted a club license under this chapter.

4069 (c) "Dining club licensee" means a person who qualifies as a club licensee under
4070 Subsection (3)(a)(ii)(C).

4071 (d) "Equity club licensee" means a person who qualifies as a club licensee under
4072 Subsection (3)(a)(ii)(A).

4073 (e) "Fraternal club licensee" means a person who qualifies as a club licensee under
4074 Subsection (3)(a)(ii)(B).

4075 (f) "Social club licensee" means a person who qualifies as a club licensee under
4076 Subsection (3)(a)(ii)(D).

4077 ~~[(+)]~~ (2) Before a [private club] person may sell or allow the consumption of an
4078 alcoholic [beverages] beverage on its premises as a club licensee, the [private club] person
4079 shall first obtain a license from the commission as provided in this chapter.

4080 ~~[(2)]~~ (3) (a) The commission may grant [private club licenses to social clubs;
4081 recreational, athletic, or kindred associations that desire to maintain premises upon which
4082 alcoholic beverages may be stored, sold, served, and consumed:] a club license to a person
4083 that:

4084 ~~[(3) At the time the commission grants a private club license the commission shall~~
4085 ~~designate whether the private club license qualifies as a class A, B, C, or D license as defined~~
4086 ~~in Subsections (3)(a) through (d).]~~

4087 ~~[(a) A "class A licensee" is a private club licensee that:]~~

4088 (i) meets the requirements of this chapter; and

4089 (ii) (A) for an equity club licensee, meets the following requirements:

4090 (I) whether incorporated or unincorporated:
4091 (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal
4092 purpose;
4093 (Bb) has members;
4094 (Cc) limits access to its premises to a member or a guest of the member; and
4095 (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,
4096 sold to, served to, and consumed by a member or a guest of a member;
4097 ~~[(ii)]~~ (II) owns, maintains, or operates a substantial recreational facility in conjunction
4098 with a club house such as:
4099 ~~[(A)]~~ (Aa) a golf course; or
4100 ~~[(B)]~~ (Bb) a tennis facility;
4101 ~~[(iii)]~~ (III) has at least 50% of the total membership having:
4102 ~~[(A)]~~ (Aa) full voting rights; and
4103 ~~[(B)]~~ (Bb) an equal share of the equity of the club; and
4104 ~~[(iv)]~~ (IV) if there is more than one class of membership, has at least one class of
4105 membership that entitles each member in that class to:
4106 ~~[(A)]~~ (Aa) full voting rights; and
4107 ~~[(B)]~~ (Bb) an equal share of the equity of the club[-];
4108 ~~[(b) A "class B licensee" is a private club licensee that:]~~
4109 ~~[(i) meets the requirements of this chapter;]~~
4110 (B) for a fraternal club licensee, meets the following requirements:
4111 (I) whether incorporated or unincorporated:
4112 (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal
4113 purpose;
4114 (Bb) has members;
4115 (Cc) limits access to its premises to a member or a guest of the member; and
4116 (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,
4117 sold to, served to, and consumed by a member or a guest of a member;

4118 [(~~ii~~)] (II) has no capital stock;

4119 [(~~iii~~)] (III) exists solely for:

4120 [(~~A~~)] (Aa) the benefit of its members and their beneficiaries; and

4121 [(~~B~~)] (Bb) a lawful social, intellectual, educational, charitable, benevolent, moral,

4122 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on

4123 through voluntary activity of its members in their local lodges;

4124 [(~~iv~~)] (IV) has a representative form of government; and

4125 [(~~v~~)] (V) has a lodge system in which:

4126 [(~~A~~)] (Aa) there is a supreme governing body;

4127 [(~~B~~)] (Bb) subordinate to the supreme governing body are local lodges, however

4128 designated, into which individuals are admitted as members in accordance with the laws of the

4129 fraternal;

4130 [(~~C~~)] (Cc) the local lodges are required by the laws of the fraternal to hold regular

4131 meetings at least monthly; [~~and~~]

4132 [(~~D~~)] (Dd) the local lodges regularly engage in one or more programs involving

4133 member participation to implement the purposes of Subsection (3)[(~~b~~)(~~iii~~)-] (a)(ii)(B)(III); and

4134 (Ee) owns or leases a building or space in a building used for lodge activities;

4135 (C) for a dining club licensee, meets the following requirements:

4136 [~~(c) A "class C licensee" is a private club licensee that:~~]

4137 [~~(i) meets the requirements of this chapter;~~]

4138 [~~(ii) is a dining club, as]~~ (I) is determined by the commission [in accordance with

4139 Subsection (4), and] to be a dining club licensee, as part of which the commission may

4140 consider:

4141 (Aa) the square footage and seating capacity of an applicant;

4142 (Bb) what portion of the square footage and seating capacity will be used for a dining

4143 area in comparison to the portion that will be used as a bar area;

4144 (Cc) whether full meals including appetizers, main courses, and desserts are served;

4145 (Dd) whether the applicant will maintain adequate on-premise culinary facilities to

4146 prepare full meals, except an applicant that is located on the premise of a hotel or resort
 4147 facility may use the culinary facilities of the hotel or resort facility;

4148 (Ee) whether the entertainment provided at the club is suitable for minors; and

4149 (Ff) the club management's ability to manage and operate a dining club license
 4150 including management experience, past dining club licensee or restaurant management
 4151 experience, and the type of management scheme employed by the dining club license; and

4152 [(iii)] (II) maintains at least 50% of its total [private] club business from the sale of
 4153 food, not including:

4154 [(A)] (Aa) mix for alcoholic beverages; or

4155 [(B)] (Bb) service charges[-]; or

4156 [(d) A "class D licensee" is a private club licensee that:]

4157 [(i) meets the requirements of this chapter; and]

4158 (D) for a social club licensee:

4159 [(ii) (A)] (I) does not meet the requirements of a [class A, B, or C] license under

4160 Subsections (3)(a)(ii)(A) through (C); or

4161 [(B)] (II) seeks to qualify as a [class D] social club licensee.

4162 [(4) In determining whether an applicant is a dining club under Subsection (3)(c), the
 4163 commission:]

4164 [(a) shall determine whether the applicant maintains at least 50% of its total private
 4165 club business from the sale of food, not including:]

4166 [(i) mix for alcoholic beverages;]

4167 [(ii) service charges; or]

4168 [(iii) membership and visitor card fees; and]

4169 [(b) may consider:]

4170 [(i) the square footage and seating capacity of the applicant;]

4171 [(ii) what portion of the square footage and seating capacity will be used for a dining
 4172 area in comparison to the portion that will be used as a bar area;]

4173 [(iii) whether full meals including appetizers, main courses, and desserts are served;]

4174 ~~[(iv) whether the applicant will maintain adequate on-premise culinary facilities to~~
 4175 ~~prepare full meals, except an applicant that is located on the premise of a hotel or resort~~
 4176 ~~facility may use the culinary facilities of the hotel or resort facility;]~~

4177 ~~[(v) whether the entertainment provided at the club is suitable for minors; and]~~
 4178 ~~[(vi) the club management's ability to manage and operate a dining club including:]~~
 4179 ~~[(A) management experience;]~~
 4180 ~~[(B) past dining club or restaurant management experience; and]~~
 4181 ~~[(C) the type of management scheme employed by the private club.]~~

4182 (b) At the time that the commission grants a club license, the commission shall
 4183 designate the type of club license for which the person qualifies.

4184 ~~[(5)] (4) (a) A [private] club licensee or [any] an officer, director, managing agent, or~~
 4185 ~~employee of a [private] club licensee may not store, sell, serve, or permit consumption of an~~
 4186 ~~alcoholic [beverages] beverage upon the premises of the club licensee, under a permit issued~~
 4187 ~~by local authority or otherwise, unless a [private] club license is first [issued] granted by the~~
 4188 ~~commission.~~

4189 (b) Violation of this Subsection ~~[(5)] (4)~~ is a class B misdemeanor.

4190 ~~[(6)] (5) (a) Subject to the other provisions of this Subsection [(6)] (5) and Subsection~~
 4191 ~~32A-4a-201(2), the commission may [issue private] grant club licenses at places and in~~
 4192 ~~numbers as the commission considers necessary.~~

4193 (b) The total number of [private] club licenses may not at any time aggregate more
 4194 than that number determined by dividing the population of the state by 7,850.

4195 (c) For purposes of this Subsection ~~[(6)] (5)~~, population shall be determined by:

4196 (i) the most recent United States decennial or special census; or

4197 (ii) another population determination made by the United States or state governments.

4198 (d) (i) The commission may issue seasonal [private] club licenses to be established in
 4199 areas the commission considers necessary[:] to:

4200 (A) a dining club licensee; or

4201 (B) a social club licensee.

4202 (ii) A seasonal [private] club license shall be for a period of six consecutive months.

4203 (iii) A [private] club license issued for operation during a summer time period is

4204 known as a "Seasonal A" [private] club license. The period of operation for a "Seasonal A"

4205 club license shall:

4206 (A) begin on May 1; and

4207 (B) end on October 31.

4208 (iv) A [private] club license issued for operation during a winter time period is known

4209 as a "Seasonal B" [private] club license. The period of operation for a "Seasonal B" club

4210 license shall:

4211 (A) begin on November 1; and

4212 (B) end on April 30.

4213 (v) In determining the number of [private] club licenses that the commission may

4214 issue under this section:

4215 (A) a seasonal [private] club license is counted as ~~1/2~~ one-half of one [private] club

4216 license; and

4217 (B) each "Seasonal A" club license shall be paired with a "Seasonal B" club license.

4218 (e) (i) If the location, design, and construction of a hotel may require more than one

4219 [private] club license location within the hotel to serve the public convenience, the

4220 commission may authorize as many as three [private] club license locations within the hotel

4221 under one club license if:

4222 (A) the hotel has a minimum of 150 guest rooms; and

4223 (B) all locations under the club license are:

4224 (I) within the same hotel facility; and

4225 (II) on premises [~~which~~] that are:

4226 (Aa) managed or operated by the club licensee; and

4227 (Bb) owned or leased by the club licensee.

4228 (ii) A facility other than a hotel may not have more than one [private] club license

4229 location under a single [private] club license.

4230 [~~(7)~~] (6) (a) Except as provided in Subsection [~~(7)~~] (6)(b), (c), or (d), the premises of a
4231 [~~private~~] club license may not be established:

4232 (i) within 600 feet of a community location, as measured by the method in Subsection
4233 [~~(7)~~] (6)(e); or

4234 (ii) within 200 feet of a community location, measured in a straight line from the
4235 nearest entrance of the proposed outlet to the nearest property boundary of the community
4236 location.

4237 (b) With respect to the establishment of a [~~private~~] club license, the commission may
4238 authorize a variance to reduce the proximity requirement of Subsection [~~(7)~~] (6)(a)(i) if:

4239 (i) the local authority grants its written consent to the variance;

4240 (ii) the commission finds that alternative locations for establishing a [~~private~~] club
4241 license in the community are limited;

4242 (iii) a public hearing is held in the city, town, or county, and where practical in the
4243 neighborhood concerned;

4244 (iv) after giving full consideration to all of the attending circumstances and the
4245 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
4246 establishing the club license would not be detrimental to the public health, peace, safety, and
4247 welfare of the community; and

4248 (v) (A) the community location governing authority gives its written consent to the
4249 variance; or

4250 (B) when written consent is not given by the community location governing authority,
4251 the commission finds that the applicant has established that:

4252 (I) there is substantial unmet public demand to consume alcohol in a public setting
4253 within the geographic boundary of the local authority in which the [~~private~~] club licensee is to
4254 be located;

4255 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
4256 described in Subsection [~~(7)~~] (6)(b)(v)(B)(I) other than through the establishment of a
4257 [~~private~~] club licensee; and

4258 (III) there is no reasonably viable alternative location within the geographic boundary
4259 of the local authority in which the [~~private~~] club licensee is to be located for establishing a
4260 [~~private~~] club license to satisfy the unmet demand described in Subsection [~~(7)~~]
4261 (6)(b)(v)(B)(I).

4262 (c) With respect to the establishment of a [~~private~~] club license, the commission may
4263 authorize a variance that reduces the proximity requirement of Subsection [~~(7)~~] (6)(a)(ii) if:

4264 (i) the community location at issue is:

4265 (A) a public library; or

4266 (B) a public park;

4267 (ii) the local authority grants its written consent to the variance;

4268 (iii) the commission finds that alternative locations for establishing a [~~private~~] club
4269 license in the community are limited;

4270 (iv) a public hearing is held in the city, town, or county, and where practical in the
4271 neighborhood concerned;

4272 (v) after giving full consideration to all of the attending circumstances and the policies
4273 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
4274 [~~private~~] club license would not be detrimental to the public health, peace, safety, and welfare
4275 of the community; and

4276 (vi) (A) the community location governing authority gives its written consent to the
4277 variance; or

4278 (B) when written consent is not given by the community location governing authority,
4279 the commission finds that the applicant has established that:

4280 (I) there is substantial unmet public demand to consume alcohol in a public setting
4281 within the geographic boundary of the local authority in which the [~~private~~] club licensee is to
4282 be located;

4283 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
4284 described in Subsection [~~(7)~~] (6)(c)(vi)(B)(I) other than through the establishment of a
4285 [~~private~~] club license; and

4286 (III) there is no reasonably viable alternative location within the geographic boundary
4287 of the local authority in which the [private] club licensee is to be located for establishing a
4288 [private] club license to satisfy the unmet demand described in Subsection [(7)]
4289 (6)(c)(vi)(B)(I).

4290 (d) With respect to the premises of a [private] club license issued by the commission
4291 that undergoes a change of ownership, the commission may waive or vary the proximity
4292 requirements of Subsection [(7)] (6)(a) in considering whether to grant a [private] club license
4293 to the new owner of the premises if:

4294 (i) (A) the premises previously received a variance reducing the proximity requirement
4295 of Subsection [(7)] (6)(a)(i); or

4296 (B) the premises received a variance reducing the proximity requirement of Subsection
4297 [(7)] (6)(a)(ii) on or before May 4, 2008; or

4298 (ii) a variance from proximity requirements was otherwise allowed under this title.

4299 (e) The 600 foot limitation described in Subsection [(7)] (6)(a)(i) is measured from the
4300 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
4301 the property boundary of the community location.

4302 [(8)] (7) (a) Nothing in this section prevents the commission from considering the
4303 proximity of any educational, religious, and recreational facility, or any other relevant factor in
4304 reaching a decision on whether to issue a [private] club license.

4305 (b) For purposes of this Subsection [(8)] (7), "educational facility" includes:

4306 (i) a nursery school;

4307 (ii) infant day care center; and

4308 (iii) a trade and technical school.

4309 [(9)] (8) If requested by a [private] club licensee, the commission may approve a
4310 change in the [class] type of [private] club license in accordance with rules made by the
4311 commission.

4312 (9) To the extent not prohibited by law other than this chapter, this chapter does not
4313 prevent a dining club licensee or social club licensee from restricting access to the club license

4314 premises on the basis of an individual:

4315 (a) paying a fee; or

4316 (b) agreeing to being on a list of individuals who have access to the club license
4317 premises.

4318 Section 41. Section **32A-5-102** is amended to read:

4319 **32A-5-102. Application and renewal requirements.**

4320 (1) A [~~club~~] person seeking a [~~class A, B, C, or D private~~] club license under this
4321 chapter shall file a written application with the department in a form prescribed by the
4322 department. The application shall be accompanied by:

4323 (a) a nonrefundable \$250 application fee;

4324 (b) an initial license fee of \$2,500, which is refundable if a club license is not granted;

4325 (c) written consent of the local authority;

4326 (d) a copy of the applicant's current business license;

4327 (e) evidence of proximity to any community location, with proximity requirements
4328 being governed by Section 32A-5-101;

4329 (f) evidence that the applicant operates a club where a variety of food is prepared and
4330 served in connection with dining accommodations;

4331 (g) a bond as specified by Section 32A-5-106;

4332 (h) a floor plan of the club license premises, including:

4333 (i) consumption areas; and

4334 (ii) the area where the applicant proposes to keep and store liquor;

4335 (i) evidence that the club is carrying public liability insurance in an amount and form
4336 satisfactory to the department;

4337 (j) evidence that the club is carrying dramshop insurance coverage of at least
4338 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

4339 (k) if the applicant is applying for an equity club license or fraternal club license, a
4340 copy of the club's bylaws or house rules, and any amendments to those documents[~~, which~~
4341 ~~shall be kept on file with the department at all times~~];

4342 (l) a signed consent form stating that the club licensee and its management will permit
4343 any authorized representative of the commission, department, or any law enforcement officer
4344 unrestricted right to enter the club license premises;

4345 (m) (i) a statement as to whether the [~~private club~~] applicant is seeking to qualify as [a
4346 class A, B, C, or D ~~private club licensee~~; and]:

4347 (A) an equity club licensee;

4348 (B) a fraternal club licensee;

4349 (C) a dining club licensee; or

4350 (D) a social club licensee; and

4351 (ii) evidence that the [~~private club~~] applicant meets the requirements for the
4352 [~~classification~~] type of club license described in Subsection (1)(m)(i) for which the [~~club~~]
4353 applicant is applying;

4354 (n) in the case of a partnership, corporation, or limited liability company applicant,
4355 proper verification evidencing that the person or persons signing the [~~private~~] club license
4356 application are authorized to so act on behalf of the partnership, corporation, or limited
4357 liability company; and

4358 (o) any other information the commission or department may require.

4359 (2) (a) The commission may refuse to issue a club license to an applicant for an equity
4360 club licensee or fraternal club licensee if the commission determines that any provisions of the
4361 [~~club's~~] applicant's bylaws or house rules, or amendments to those documents are not:

4362 (i) reasonable; and

4363 (ii) consistent with:

4364 (A) the declared nature and purpose of the applicant; and

4365 (B) the purposes of this chapter.

4366 (b) [~~Club~~] An equity club licensee's or fraternal club licensee's bylaws or house rules
4367 shall include provisions respecting the following:

4368 (i) standards of eligibility for members;

4369 (ii) limitation of members, consistent with the nature and purpose of the [~~private~~]

4370 club;

4371 (iii) the period for which dues are paid, and the date upon which the period expires;

4372 (iv) provisions for [~~dropping members~~] removing a member from the club

4373 membership for the nonpayment of dues or other cause; and

4374 (v) provisions for guests [~~or visitors, if any, and for the issuance and use of visitor~~

4375 ~~cards~~].

4376 (c) An equity club licensee or fraternal club licensee shall keep its bylaws or house

4377 rules, and any amendments to those documents, on file with the department at all times.

4378 (3) (a) [~~All private club licenses expire~~] A club license expires on June 30 of each

4379 year.

4380 (b) A person desiring to renew that person's [~~private~~] club license shall submit by no

4381 later than May 31:

4382 (i) a completed renewal application to the department; and

4383 (ii) a renewal fee [~~in the following amount:~~] of \$1,600.

4384	[Gross Cost of Liquor in Previous License Year for the Licensee — Renewal Fee]
4385	[under \$10,000 ————— \$1,000]
4386	[equals or exceeds \$10,000 but less than \$25,000 ————— \$1,250]
4387	[equals or exceeds \$25,000 but less than \$75,000 ————— \$1,750]
4388	[equals or exceeds \$75,000 ————— \$2,250]

4389 (c) Failure to meet the renewal requirements [~~shall result~~] results in an automatic

4390 forfeiture of the club license effective on the date the existing club license expires.

4391 (d) A renewal application shall be in a form as prescribed by the department.

4392 (4) To ensure compliance with Subsection 32A-5-107[~~(40)~~] (26), the commission may

4393 suspend or revoke [~~any private~~] a club license if the [~~private~~] club licensee does not

4394 immediately notify the department of any change in:

4395 (a) ownership of the club licensee;

4396 (b) for a corporate owner, the:

4397 (i) corporate officers or directors; or

4398 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
4399 corporation; or

4400 (c) for a limited liability company:

4401 (i) managers; or

4402 (ii) members owning at least 20% of the limited liability company.

4403 Section 42. Section **32A-5-103 (Effective 07/01/09)** is amended to read:

4404 **32A-5-103 (Effective 07/01/09). Qualifications.**

4405 (1) (a) The commission may not grant a [~~private~~] club license to a person who has
4406 been convicted of:

4407 (i) a felony under a federal or state law;

4408 (ii) a violation of a federal or state law or local ordinance concerning the sale,
4409 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

4410 (iii) a crime involving moral turpitude; or

4411 (iv) on two or more occasions within the five years before the day on which the license
4412 is granted, driving under the influence of alcohol, a drug, or the combined influence of alcohol
4413 and a drug.

4414 (b) In the case of a partnership, corporation, or limited liability company, the
4415 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
4416 offense described in Subsection (1)(a):

4417 (i) a partner;

4418 (ii) a managing agent;

4419 (iii) a manager;

4420 (iv) an officer;

4421 (v) a director;

4422 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4423 the applicant corporation; or

4424 (vii) a member who owns at least 20% of the applicant limited liability company.

4425 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a

4426 supervisory or managerial capacity for a [private] club has been convicted of an offense
4427 described in Subsection (1)(a).

4428 (2) The commission may immediately suspend or revoke a [private] club license if
4429 after the day on which the [private] club license is granted, a person described in Subsection
4430 (1)(a), (b), or (c):

4431 (a) is found to have been convicted of an offense described in Subsection (1)(a) prior
4432 to the club license being granted; or

4433 (b) on or after the day on which the club license is granted:

4434 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

4435 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined
4436 influence of alcohol and a drug; and

4437 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
4438 influence of alcohol and a drug within five years before the day on which the person is
4439 convicted of the offense described in Subsection (2)(b)(ii)(A).

4440 (3) The director may take emergency action by immediately suspending the operation
4441 of a [private] club license according to the procedures and requirements of Title 63G, Chapter
4442 4, Administrative Procedures Act, for the period during which the criminal matter is being
4443 adjudicated if a person described in Subsection (1)(a), (b), or (c):

4444 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
4445 or

4446 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
4447 a drug, or the combined influence of alcohol and a drug; and

4448 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined
4449 influence of alcohol and a drug within five years before the day on which the person is arrested
4450 on a charge described in Subsection (3)(b)(i).

4451 (4) (a) (i) The commission may not grant a [private] club license to a person who has
4452 had any type of license, agency, or permit issued under this title revoked within the last three
4453 years.

4454 (ii) The commission may not grant a [private] club license to an applicant that is a
4455 partnership, corporation, or limited liability company if a partner, managing agent, manager,
4456 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
4457 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
4458 company is or was:

4459 (A) a partner or managing agent of a partnership that had any type of license, agency,
4460 or permit issued under this title revoked within the last three years;

4461 (B) a managing agent, officer, director, or a stockholder who holds or held at least
4462 20% of the total issued and outstanding stock of a corporation that had any type of license,
4463 agency, or permit issued under this title revoked within the last three years; or

4464 (C) a manager or member who owns or owned at least 20% of a limited liability
4465 company that had any type of license, agency, or permit issued under this title revoked within
4466 the last three years.

4467 (b) An applicant that is a partnership, corporation, or limited liability company may
4468 not be granted a [private] club license if any of the following had any type of license, agency,
4469 or permit issued under this title revoked while acting in that person's individual capacity
4470 within the last three years:

4471 (i) a partner or managing agent of the applicant partnership;

4472 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4473 total issued and outstanding stock of the applicant corporation; or

4474 (iii) a manager or member who owned at least 20% of the applicant limited liability
4475 company.

4476 (c) A person acting in an individual capacity may not be granted a [private] club
4477 license if that person was:

4478 (i) a partner or managing agent of a partnership that had any type of license, agency,
4479 or permit issued under this title revoked within the last three years;

4480 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4481 total issued and outstanding stock of a corporation that had any type of license, agency, or

4482 permit issued under this title revoked within the last three years; or

4483 (iii) a manager or member of a limited liability company who owned at least 20% of
 4484 the limited liability company that had any type of license, agency, or permit issued under this
 4485 title revoked within the last three years.

4486 (5) (a) A minor may not be granted a ~~[private]~~ club license.

4487 (b) The commission may not grant a ~~[private]~~ club license to an applicant that is a
 4488 partnership, corporation, or limited liability company if any of the following is a minor:

4489 (i) a partner or managing agent of the applicant partnership;

4490 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
 4491 total issued and outstanding stock of the applicant corporation; or

4492 (iii) a manager or member who owns at least 20% of the applicant limited liability
 4493 company.

4494 (6) If a person ~~[or entity]~~ to whom a club license ~~[has been issued]~~ is granted under
 4495 this chapter no longer possesses the qualifications required by this title for obtaining that
 4496 license, the commission may suspend or revoke that license.

4497 (7) The commission may not grant a ~~[private]~~ club license to an applicant who is not
 4498 lawfully present in the United States.

4499 Section 43. Section **32A-5-104** is amended to read:

4500 **32A-5-104. Commission and department duties before granting licenses.**

4501 (1) (a) Before a ~~[private]~~ club license may be granted by the commission, the
 4502 department shall conduct an investigation and may hold public hearings for the purpose of
 4503 gathering information and making recommendations to the commission as to whether or not a
 4504 club license should be granted.

4505 (b) The department shall forward the information and recommendations described in
 4506 Subsection (1)(a) to the commission to aid in the commission's determination.

4507 (2) Before ~~[issuing a private]~~ granting a club license, the commission shall:

4508 (a) determine that:

4509 (i) the applicant has complied with all basic qualifications and requirements for

4510 making application for a club license as provided by Sections 32A-5-102 and 32A-5-103; and

4511 (ii) the application is complete;

4512 (b) determine ~~whether the applicant qualifies as a class A, B, C, or D private club~~
4513 ~~licensee~~ the type of club license for which the applicant qualifies;

4514 (c) consider the locality within which the proposed [~~private~~] club license outlet is
4515 located including:

4516 (i) physical characteristics such as:

4517 (A) condition of the premises;

4518 (B) square footage; and

4519 (C) parking availability; and

4520 (ii) operational factors such as:

4521 (A) tourist traffic;

4522 (B) proximity to and density of other state stores, package agencies, and licensed
4523 outlets;

4524 (C) demographics;

4525 (D) population to be served; and

4526 (E) the extent of and proximity to any community location;

4527 (d) consider the club license management's ability to manage and operate a [~~private~~]
4528 club license, including:

4529 (i) management experience;

4530 (ii) past retail liquor experience; and

4531 (iii) the type of management scheme employed by the [~~private~~] club licensee;

4532 (e) consider the nature or type of [~~private~~] club [~~operation~~] operations of the proposed
4533 [~~liquor~~] club licensee, including:

4534 (i) the type of menu items offered and emphasized;

4535 (ii) the hours of operation;

4536 (iii) the seating capacity of the [~~facility~~] premises; and

4537 (iv) the gross sales of food items; and

4538 (f) consider any other factor or circumstance the commission considers necessary.

4539 Section 44. Section **32A-5-106** is amended to read:

4540 **32A-5-106. Bond.**

4541 (1) Each [~~private~~] club [~~liquor~~] licensee shall post a cash or corporate surety bond in
4542 the penal sum of \$10,000 payable to the department, which the club licensee has procured and
4543 must maintain for so long as the club licensee continues to operate as a [~~private~~] club [~~liquor~~]
4544 licensee.

4545 (2) The bond shall be in a form approved by the attorney general, conditioned upon
4546 [~~the~~] a club licensee's faithful compliance with this title and the rules of the commission.

4547 (3) (a) If [~~the~~] a \$10,000 corporate surety bond is canceled due to [~~the~~] a club
4548 licensee's negligence, a \$300 reinstatement fee may be assessed.

4549 (b) No part of any cash or corporate bond [~~so~~] posted under this section may be
4550 withdrawn:

4551 (i) during the period the club license is in effect~~;~~; or

4552 (ii) while revocation proceedings are pending against the club licensee.

4553 (c) A bond filed by a club licensee may be forfeited if the club license is finally
4554 revoked.

4555 Section 45. Section **32A-5-107** is amended to read:

4556 **32A-5-107. Operational restrictions.**

4557 A [~~club~~] person granted a [~~private~~] club license and the employees, management
4558 personnel, and members of [~~the~~] an equity club licensee or fraternal club licensee shall comply
4559 with the following conditions and requirements. Failure to comply may result in a suspension
4560 or revocation of the [~~private~~] club license or other disciplinary action taken against individual
4561 employees or management personnel.

4562 (1) [~~A private~~] An equity club licensee or fraternal club licensee shall comply with the
4563 following:

4564 (a) A club licensee shall have a governing body that:

4565 [~~(a)~~] (i) consists of three or more members of the [~~private~~] club; and

4566 ~~[(b)]~~ (ii) holds regular meetings to:
4567 ~~[(i)]~~ (A) review membership applications; and
4568 ~~[(i)]~~ (B) conduct other business as required by the bylaws or house rules of the
4569 ~~[private]~~ club.

4570 ~~[(2)(a) A private]~~ (b) A club licensee may admit an individual as a member only on
4571 written application signed by the applicant, subject to:

4572 (i) the applicant paying an application fee ~~[as required by Subsection (4)]~~; and
4573 (ii) investigation, vote, and approval of a quorum of the governing body.

4574 ~~[(b)(i) An]~~ (c) A club licensee shall:

4575 (i) record an admission of a member ~~[shall be recorded]~~ in the official minutes of a
4576 regular meeting of the governing body~~[-]; and~~

4577 (ii) ~~[An application,]~~ whether approved or disapproved, ~~[shall be filed]~~ file an
4578 application as a part of the official records of the ~~[private]~~ club licensee.

4579 ~~[(c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an~~
4580 ~~applicant and immediately accord the applicant temporary privileges of a member until the~~
4581 ~~governing body completes its investigation and votes on the application, subject to the~~
4582 ~~following conditions:]~~

4583 ~~[(i) the applicant shall:]~~

4584 ~~[(A) submit a written application; and]~~

4585 ~~[(B) pay the application fee required by Subsection (4);]~~

4586 ~~[(ii) the governing body votes on the application at its next meeting, which shall take~~
4587 ~~place no later than 31 days following the day on which the application is submitted; and]~~

4588 ~~[(iii) the applicant's temporary membership privileges terminate if the governing body~~
4589 ~~disapproves the application.]]~~

4590 (d) The spouse of a member of ~~[any class of private]~~ a club licensee has the rights and
4591 privileges of the member:

4592 (i) to the extent permitted by the bylaws or house rules of the ~~[private]~~ club licensee;
4593 and

4594 (ii) except to the extent restricted by this title.

4595 (e) ~~[The]~~ A minor child of a member of ~~[a class A private]~~ a club licensee has the

4596 rights and privileges of the member:

4597 (i) to the extent permitted by the bylaws or house rules of the ~~[private]~~ club licensee;

4598 and

4599 (ii) except to the extent restricted by this title.

4600 ~~[(3)(a) A private]~~ (f) A club licensee shall maintain a current and complete

4601 membership record showing:

4602 (i) the date of application of a proposed member;

4603 (ii) a member's address;

4604 (iii) the date the governing body approved a member's admission;

4605 (iv) the date initiation fees and dues are assessed and paid; and

4606 (v) the serial number of the membership card issued to a member.

4607 ~~[(b) A]~~ (g) A club licensee shall keep a current record ~~[shall be kept]~~ indicating when

4608 a member is ~~[dropped]~~ removed as a member or resigns.

4609 ~~[(4)(a) A private]~~ (h) A club licensee shall establish in the ~~[private]~~ club licensee's

4610 bylaws or house rules application fees and membership dues~~[:]~~.

4611 ~~[(i) as established by commission rules; and]~~

4612 ~~[(ii) that are collected from all members:]~~

4613 ~~[(b) An application fee:]~~

4614 ~~[(i) may not be less than \$4;]~~

4615 ~~[(ii) shall be paid when the applicant applies for membership; and]~~

4616 ~~[(iii) at the discretion of the private club, may be credited toward membership dues if~~

4617 ~~the governing body approves the applicant as a member.]~~

4618 ~~[(5)(a) A private]~~ (i) A club licensee may, in its discretion, allow an individual to be

4619 admitted to or use the ~~[private]~~ club license premises as a guest ~~[only under]~~ subject to the

4620 following conditions:

4621 (i) the individual is allowed to use the club license premises only to the extent

4622 permitted by the club licensee's bylaws or house rules;

4623 ~~[(i) a guest]~~ (ii) the individual must be previously authorized by ~~[one of the following]~~
4624 a member of the club who agrees to host the individual as a guest into the ~~[private]~~ club~~[-];~~

4625 ~~[(A) an active member of the private club; or]~~

4626 ~~[(B) a holder of a current visitor card;]~~

4627 ~~[(ii) a guest must be known by the guest's host based on a preexisting bonafide~~
4628 ~~business or personal relationship with the host before the guest's admittance to the private~~
4629 ~~club;]~~

4630 ~~[(iii) a guest must be accompanied by the guest's host for the duration of the guest's~~
4631 ~~visit to the private club;]~~

4632 ~~[(iv) a guest's host must remain on the private club premises for the duration of the~~
4633 ~~guest's visit to the private club;]~~

4634 ~~[(v) a guest's host is responsible for the cost of services extended to the guest;]~~

4635 ~~[(vi) a guest]~~ (iii) the individual has only those privileges derived from the ~~[guest's]~~
4636 individual's host for the duration of the ~~[guest's]~~ individual's visit to the ~~[private]~~ club license
4637 premises; and

4638 ~~[(vii) an employee of the private club, while on duty, may not act as a host for a~~
4639 ~~guest;]~~

4640 ~~[(viii) an employee of the private club, while on duty, may not attempt to locate a~~
4641 ~~member or current visitor card holder to serve as a host for a guest with whom the member or~~
4642 ~~visitor card holder has no acquaintance based on a preexisting bonafide business or personal~~
4643 ~~relationship prior to the guest's arrival at the private club; and]~~

4644 ~~[(ix) a private]~~ (iv) a club licensee or an employee of the ~~[private]~~ club licensee may
4645 not enter into an agreement or arrangement with a club member ~~[or holder of a current visitor~~
4646 ~~card]~~ to indiscriminately host a member of the general public into the ~~[private]~~ club license
4647 premises as a guest.

4648 ~~[(b)]~~ (j) Notwithstanding Subsection ~~[(5)(a), previous authorization is not required]~~
4649 (1)(i), an individual may be allowed as a guest in a club license premises without a host if:

4650 ~~[(i) the private club licensee is a class B private club; and]~~
4651 (i) (A) the club licensee is an equity club licensee; and
4652 (B) the individual is a member of an equity club licensee that has reciprocal guest
4653 privileges with the equity club licensee for which the individual is a guest; or
4654 (ii) (A) the club licensee is a fraternal club licensee; and
4655 ~~[(ii) the guest]~~ (B) the individual is a member of the same fraternal organization as
4656 the ~~[private]~~ fraternal club licensee for which the individual is a guest.

4657 ~~[(6) A private club may, in its discretion, issue a visitor card to allow an individual to~~
4658 ~~enter and use the private club premises on a temporary basis under the following conditions:]~~

4659 ~~[(a) a visitor card shall be issued for a period not to exceed three weeks;]~~
4660 ~~[(b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;]~~
4661 ~~[(c) a visitor card may not be issued to a minor;]~~
4662 ~~[(d) a holder of a visitor card may not host more than seven guests at one time;]~~
4663 ~~[(e) a visitor card issued shall include:]~~
4664 ~~[(i) the visitor's full name and signature;]~~
4665 ~~[(ii) the date the visitor card is issued;]~~
4666 ~~[(iii) the date the visitor card expires;]~~
4667 ~~[(iv) the club's name; and]~~
4668 ~~[(v) the serial number of the visitor card; and]~~
4669 ~~[(f) (i) the private club shall maintain a current record of the issuance of a visitor card~~
4670 ~~on the private club premises; and]~~

4671 ~~[(ii) the record described in Subsection (6)(f)(i) shall:]~~
4672 ~~[(A) be available for inspection by the department; and]~~
4673 ~~[(B) include:]~~
4674 ~~[(I) the name of the person to whom the visitor card is issued;]~~
4675 ~~[(II) the date the visitor card is issued;]~~
4676 ~~[(III) the date the visitor card expires; and]~~
4677 ~~[(IV) the serial number of the visitor card.]~~

4678 ~~[(7) A private]~~ (k) A club licensee may not sell an alcoholic beverage to or allow a
4679 patron to be admitted to or use the ~~[private]~~ club license premises other than:

4680 ~~[(a)]~~ (i) a member; or
4681 (ii) a guest under Subsection (1)(i) or (j).

4682 ~~[(b) a visitor who holds a valid visitor card issued under Subsection (6); or]~~
4683 ~~[(c) a guest of: (i) a member; or (ii) a holder of a valid visitor card.]~~

4684 ~~[(8)(a)]~~ (l) A minor may not be~~[-(i)]~~ a member, officer, director, or trustee of a
4685 ~~[private]~~ club~~;~~ licensee.

4686 ~~[(ii) issued a visitor card;]~~
4687 ~~[(iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by~~
4688 ~~commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);]~~

4689 (m) (i) A club licensee shall maintain a minute book that is posted currently by the
4690 club licensee.

4691 (ii) The minute book required by this Subsection (1)(m) shall contain the minutes of a
4692 regular or special meeting of the governing body.

4693 (n) A club licensee shall maintain a membership list.

4694 (o) A club licensee shall maintain a current copy of the club licensee's current bylaws
4695 and current house rules.

4696 (p) Public advertising related to a club licensee by the following shall clearly identify a
4697 club as being "a club for members":

4698 (i) the club licensee;
4699 (ii) an employee or agent of the club licensee; or
4700 (iii) a person under a contract or agreement with the club licensee.

4701 ~~[(iv) admitted into, use, or be on the premises of a class D private club:]~~
4702 ~~[(A) that operates as a sexually oriented business as defined by local ordinance; or]~~
4703 ~~[(B) when a sexually oriented entertainer is performing on the premises; or]~~

4704 ~~[(v) admitted into, use, or be on the premises of a class D private club except to the~~
4705 ~~extent authorized under Subsections (8)(b) through (g).]~~

4706 ~~[(b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private~~
4707 ~~club, a minor may be admitted into, use, or be on the premises of a class D private club under~~
4708 ~~the following circumstances:]~~

4709 ~~[(i) during a period when no alcoholic beverages are sold, served, otherwise furnished,~~
4710 ~~or consumed on the premises, but in no event later than 1 p.m.;~~]

4711 ~~[(ii) when accompanied at all times by a member or holder of a current visitor card~~
4712 ~~who is the minor's parent, legal guardian, or spouse; and]~~

4713 ~~[(iii) the private club has a full kitchen and is licensed by the local jurisdiction as a~~
4714 ~~food service provider.]~~

4715 ~~[(c) A class D private club may employ a minor on the premises of the private club if:]~~

4716 ~~[(i) the parent or legal guardian of the minor owns or operates the class D private club;~~
4717 ~~or]~~

4718 ~~[(ii) the minor performs maintenance and cleaning services during the hours when the~~
4719 ~~private club is not open for business.]~~

4720 (2) (a) A minor may not be admitted into, use, or be on:

4721 (i) a lounge or bar area, as defined by commission rule, of the premises of:

4722 (A) an equity club licensee;

4723 (B) a fraternal club licensee; or

4724 (C) a dining club licensee; or

4725 (ii) the premises of:

4726 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
4727 or older; or

4728 (B) a social club licensee, except to the extent provided for under Subsection (2)(d).

4729 (b) (i) Except as provided in Subsection (2)(b)(ii), a club licensee may not employ a
4730 minor to:

4731 (A) sell, dispense, or handle an alcoholic beverage; or

4732 (B) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or
4733 dining club licensee.

4734 (ii) An equity club licensee or dining club licensee may employ a minor who is at least
 4735 16 years of age to enter the sale at a cash register or other sales recording device, except that a
 4736 minor may not work in a lounge or bar area of the club licensee.

4737 (c) A minor may not be employed on the premises of a social club licensee.

4738 (d) (i) [~~Subject to Subsection (8)(d)(ii), a~~] A minor who is at least 18 years of age may
 4739 be admitted into, use, or be on the premises of a dance or concert hall if:

4740 (A) the dance or concert hall is located:

4741 (I) on the premises of a [~~class D private~~] social club licensee; or

4742 (II) on the property that immediately adjoins the premises of and is operated by a
 4743 [~~class D private~~] social club licensee; and

4744 (B) the social club licensee holds a permit to operate a dance or concert hall that was
 4745 granted on or before May 11, 2009:

4746 (I) on the basis of the operational requirements described in Subsection (2)(d)(ii); and

4747 (II) when the social club licensee was licensed as a class D private club.

4748 [~~(B) the commission issues the class D private club a permit to operate a minor dance~~
 4749 ~~or concert hall based on the criteria described in Subsection (8)(d)(iii).]~~

4750 [~~(ii) If the dance or concert hall is located on the premises of a class D private club, a~~
 4751 ~~minor must be properly hosted in accordance with Subsection (5) by:]~~

4752 [~~(A) a member; or]~~

4753 [~~(B) a holder of a current visitor card.]~~

4754 [~~(iii) The commission may issue a minor dance or concert hall permit if:]~~

4755 (ii) A social club licensee that holds a dance or concert hall permit shall operate in
 4756 such a way that:

4757 (A) the [~~private club's~~] social club licensee's lounge, bar, [~~and~~] or other area for
 4758 alcoholic beverage consumption [~~area~~] is:

4759 (I) not accessible to a minor;

4760 (II) clearly defined; and

4761 (III) separated from the dance or concert hall area by one or more walls, multiple floor

4762 levels, or other substantial physical barriers;

4763 (B) a bar or dispensing area is not visible to a minor;

4764 (C) consumption of an alcoholic beverage may not occur in:

4765 (I) the dance or concert hall area; or

4766 (II) an area of the ~~[private]~~ social club license premises accessible to a minor;

4767 (D) the ~~[private]~~ social club licensee maintains sufficient security personnel to prevent

4768 the passing of beverages from the ~~[private club's]~~ social club licensee's lounge, bar, or [an]

4769 other area for alcoholic beverage consumption ~~[area]~~ to:

4770 (I) the dance or concert hall area; or

4771 (II) an area of the ~~[private]~~ social club license premises accessible to a minor;

4772 (E) there are one or more separate entrances, exits, and restroom facilities from the

4773 ~~[private club's]~~ social club licensee's lounge, bar, [and] or other area for alcoholic beverage

4774 consumption ~~[areas]~~ than for:

4775 (I) the dance or concert hall area; or

4776 (II) an area accessible to a minor; and

4777 (F) the ~~[private]~~ social club licensee complies with any other restrictions imposed by

4778 the commission by rule.

4779 ~~[(e)]~~ (iii) A minor under 18 years of age who is accompanied at all times by a parent

4780 or legal guardian ~~[who is a member or holder of a current visitor card]~~ may be admitted into,

4781 use, or be on the premises of a concert hall described in Subsection ~~[(8)(d)(i)]~~ (2)(d)(ii) if:

4782 ~~[(i)]~~ (A) the requirements of Subsection ~~[(8)]~~ (2)(d) are met; and

4783 ~~[(ii)]~~ (B) signage, product, and dispensing equipment containing recognition of an

4784 alcoholic beverage is not visible to the minor.

4785 ~~[(f)]~~ (iv) A minor under 18 years of age but who is 14 years of age or older who is not

4786 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of

4787 a concert hall described in Subsection ~~[(8)(d)(i)]~~ (2)(d)(ii) if:

4788 ~~[(i)]~~ (A) the requirements of Subsections ~~[(8)(d) and (8)(e)(ii)]~~ (2)(d)(ii) and (iii) are

4789 met; and

4790 [(ii)] (B) there is no alcoholic beverage, sales, service, or consumption on the premises
4791 of the [~~class D private~~] social club licensee.

4792 [(g)] (v) The commission may suspend or revoke a [~~mirror~~] dance or concert permit
4793 issued to a [~~class D private~~] social club licensee and suspend or revoke the license of the [~~class~~
4794 ~~D private~~] social club licensee if:

4795 [(i)] (A) the [~~private~~] social club licensee fails to comply with the restrictions in this
4796 Subsection [(8)(d), (e), or (f)] (2)(d);

4797 [(ii)] (B) the [~~private~~] social club licensee sells, serves, or otherwise furnishes an
4798 alcoholic beverage to a minor;

4799 [(iii)] (C) the [~~private~~] social club licensee or a supervisory or managerial level
4800 employee of the [~~private~~] social club licensee is convicted under Title 58, Chapter 37, Utah
4801 Controlled Substances Act, on the basis of an activity that occurs on:

4802 [(A)] (I) the licensed premises; or

4803 [(B)] (II) the dance or concert hall that is located on property that immediately adjoins
4804 the premises of and is operated by the [~~class D private~~] social club licensee;

4805 [(iv)] (D) there are three or more convictions of patrons of the [~~private~~] social club
4806 licensee under Title 58, Chapter 37, Utah Controlled Substances Act, [~~based on~~] on the basis
4807 of activities that occur on:

4808 [(A)] (I) the licensed premises; or

4809 [(B)] (II) the dance or concert hall that is located on property that immediately adjoins
4810 the premises of and is operated by the [~~class D private~~] social club licensee;

4811 [(v)] (E) there is more than one conviction:

4812 [(A)] (I) of:

4813 [(f)] (Aa) the [~~private~~] social club licensee;

4814 [(ff)] (Bb) an employee of the [~~private~~] social club licensee;

4815 [(fff)] (Cc) an entertainer contracted by the [~~private~~] social club licensee; or

4816 [(fv)] (Dd) a patron of the [~~private~~] social club licensee; and

4817 [(B)] (II) made on the basis of a lewd act or lewd entertainment prohibited by this title

4818 that occurs on:

4819 ~~[(F)]~~ (A) the licensed premises; or

4820 ~~[(H)]~~ (B) the dance or concert hall that is located on property that immediately adjoins
4821 the premises of and is operated by the ~~[class-D-private]~~ social club licensee; or

4822 ~~[(vi)]~~ (F) the commission finds acts or conduct contrary to the public welfare and
4823 morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:

4824 ~~[(A)]~~ (I) the licensed premises; or

4825 ~~[(B)]~~ (II) the dance or concert hall that is located on property that immediately adjoins
4826 the premises of and is operated by the ~~[class-D-private]~~ social club licensee.

4827 ~~[(h)]~~ (vi) Nothing in this Subsection ~~[(8)]~~ (2) prohibits a ~~[class-D-private]~~ social club
4828 licensee from selling, serving, or otherwise furnishing an alcoholic beverage in a dance or
4829 concert area located on the ~~[private]~~ social club license premises on days and times when the
4830 ~~[private]~~ social club licensee does not allow a minor into those areas.

4831 ~~[(i)]~~ (e) Nothing in ~~[Subsections (8)(a) through (g)]~~ this Subsection (2) precludes a
4832 local authority from being more restrictive of a minor's admittance to, use of, or presence on
4833 the premises of a ~~[private]~~ club licensee.

4834 ~~[(9)]~~ (3) (a) A ~~[private]~~ club license shall maintain an expense ledger or record
4835 showing in detail ~~[aH]~~:

4836 (i) quarterly expenditures separated by payments for:

4837 ~~[(i)]~~ (A) malt or brewed beverages;

4838 ~~[(ii)]~~ (B) liquor;

4839 ~~[(iii)]~~ (C) food;

4840 ~~[(iv)]~~ detailed payroll;

4841 ~~[(v)]~~ entertainment;

4842 ~~[(vi)]~~ rent;

4843 ~~[(vii)]~~ utilities;

4844 ~~[(viii)]~~ supplies; and

4845 ~~[(ix)]~~ other expenditures;

4846 (D) set-ups; and
4847 (E) any other item required by the department; and
4848 (ii) sales made separately for:
4849 (A) malt or brewed beverages;
4850 (B) liquor;
4851 (C) food;
4852 (D) set-ups; and
4853 (E) any other item required by the department.
4854 (b) A [private] club licensee shall keep a record required by this Subsection [(9)] (3):
4855 (i) in a form approved by the department; and
4856 [~~(ii) balanced each month;~~]
4857 (ii) current for each three-month period.
4858 (c) An expenditure of a club licensee shall be supported by:
4859 (i) a delivery ticket;
4860 (ii) an invoice;
4861 (iii) a receipted bill;
4862 (iv) a canceled check;
4863 (v) a petty cash voucher; or
4864 (vi) other sustaining datum or memorandum.
4865 [~~(d) An invoice or receipted bill for the current calendar or fiscal year documenting a~~
4866 ~~purchase made by the private club shall be maintained.]~~
4867 [~~(10) (a) A private club shall maintain a minute book that is posted currently by the~~
4868 ~~private club.]~~
4869 [~~(b) The minute book required by this Subsection (10) shall contain the minutes of a~~
4870 ~~regular or special meeting of the governing body.]~~
4871 [~~(c) A private club shall maintain a membership list.]~~
4872 [~~(11) (a) A private club shall maintain a current copy of the private club's current~~
4873 ~~bylaws and current house rules.]~~

4874 ~~[(b) A change in the bylaws or house rules:]~~
4875 ~~[(i) is not effective unless submitted to the department within ten days after adoption;~~
4876 ~~and]~~
4877 ~~[(ii) becomes effective 15 days after received by the department unless rejected by the~~
4878 ~~department before the expiration of the 15-day period.]~~

4879 ~~[(12) A private club]~~ (d) In addition to a ledger or record required by Subsection
4880 (3)(a), a club licensee shall maintain accounting and other records and documents as the
4881 department may require.

4882 ~~[(13)]~~ (e) A [private] club licensee or person acting for the [private] club licensee, who
4883 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of
4884 account or other document of the [private] club licensee required to be made, maintained, or
4885 preserved by this title or the rules of the commission for the purpose of deceiving the
4886 commission, the department, or an official or employee of the commission or department, is
4887 subject to:

4888 ~~[(a)]~~ (i) the suspension or revocation of the ~~[private club's]~~ club license; and
4889 ~~[(b)]~~ (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4890 ~~[(14)-(a)]~~ (f) A [private] club licensee shall maintain and keep a record required by
4891 this section and a book, record, receipt, or disbursement maintained or used by the club
4892 licensee, as the department requires, for a minimum period of three years.

4893 ~~[(b)]~~ (g) A record, book, receipt, or disbursement is subject to inspection by an
4894 authorized representative of the commission and the department.

4895 ~~[(c)]~~ (h) A [private] club licensee shall allow the department, through an auditor or
4896 examiner of the department, to audit the records of the [private] club licensee at times the
4897 department considers advisable.

4898 ~~[(d)]~~ (i) The department shall audit the records of the [private] club licensee at least
4899 once annually.

4900 ~~[(15)]~~ (4) (a) A [private] club licensee shall own or lease premises suitable for the
4901 ~~[private club's]~~ club licensee's activities.

4902 ~~[(16) (a)]~~ (b) A ~~[private]~~ club licensee may not maintain ~~[facilities]~~ premises in a
4903 manner that barricades or conceals the ~~[private]~~ club licensee's operation.

4904 ~~[(b)]~~ (c) A member of the commission, authorized department personnel, or a peace
4905 officer shall, upon presentation of credentials, be admitted immediately to the ~~[private]~~ club
4906 license premises and permitted without hindrance or delay to inspect completely the entire
4907 ~~[private]~~ club license premises and the books and records of the ~~[private]~~ club licensee, at any
4908 time during which the ~~[private]~~ club licensee is open for the transaction of business to its
4909 members.

4910 ~~[(17) Public advertising related to a private club licensee by the following shall clearly~~
4911 ~~identify a private club as being "a private club for members":]~~

4912 ~~[(a) the private club licensee;]~~

4913 ~~[(b) an employee or agent of the private club licensee; or]~~

4914 ~~[(c) a person under a contract or agreement with the private club licensee.]~~

4915 ~~[(18) A private]~~ (5) A club licensee must have food available at all times when an
4916 alcoholic beverage is sold, served, or consumed on the premises.

4917 ~~[(19)]~~ (6) (a) ~~[Liquor may not be purchased by a private]~~ A club licensee may not
4918 purchase liquor except from a state store or package agency.

4919 (b) Liquor purchased from a state store or package agency may be transported by the
4920 ~~[private]~~ club licensee from the place of purchase to the licensed premises.

4921 (c) Payment for liquor shall be made in accordance with rules established by the
4922 commission.

4923 ~~[(20)]~~ (7) A ~~[private]~~ club licensee may sell or provide a primary spirituous liquor only
4924 in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
4925 dispensing system approved by the department in accordance with commission rules adopted
4926 under this title, except that:

4927 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
4928 system if used as a secondary flavoring ingredient in a beverage subject to the following
4929 restrictions:

4930 (i) the secondary ingredient may be dispensed only in conjunction with the purchase
4931 of a primary spirituous liquor;

4932 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

4933 (iii) the [private] club licensee shall designate a location where flavorings are stored
4934 on the floor plan provided to the department; and

4935 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

4936 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
4937 system if used:

4938 (i) as a flavoring on a dessert; and

4939 (ii) in the preparation of a flaming food dish, drink, or dessert;

4940 (c) a [private] club licensee patron may have no more than 2.5 ounces of spirituous
4941 liquor at a time before the [private] club licensee patron[-]; and

4942 (d) a [private] club licensee patron may have no more than two spirituous liquor
4943 drinks at a time before the [private] club licensee patron, except that a [private] club licensee
4944 patron may not have two spirituous liquor drinks before the [private] club licensee patron if
4945 one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other
4946 spirituous liquor drink.

4947 [~~(21)~~] (8) (a) (i) Wine may be sold and served by the glass or an individual portion not
4948 to exceed five ounces per glass or individual portion.

4949 (ii) An individual portion may be served to a patron in more than one glass as long as
4950 the total amount of wine does not exceed five ounces.

4951 (iii) An individual portion of wine is considered to be one alcoholic beverage under
4952 Subsection [~~(25)~~] (12)(c).

4953 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
4954 fixed by the commission to a table of four or more persons.

4955 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
4956 fixed by the commission to a table of less than four persons.

4957 (c) A wine service may be performed and a service charge assessed by the [private]

4958 club licensee as authorized by commission rule for wine purchased at the [~~private~~] club license
4959 premises.

4960 [~~(22)~~] (9) (a) Heavy beer may be served in an original container not exceeding one
4961 liter at a price fixed by the commission.

4962 (b) A flavored malt beverage may be served in an original container not exceeding one
4963 liter at a price fixed by the commission.

4964 (c) A service charge may be assessed by the [~~private~~] club licensee for heavy beer or a
4965 flavored malt beverage purchased at the [~~private~~] club license premises.

4966 [~~(23)~~] (10) (a) (i) Subject to Subsection [~~(23)~~] (10)(a)(ii), a [~~private~~] club licensee may
4967 sell beer for on-premise consumption:

4968 (A) in an open container; and

4969 (B) on draft.

4970 (ii) Beer sold pursuant to Subsection [~~(23)~~] (10)(a)(i) shall be in a size of container
4971 that does not exceed two liters, except that beer may not be sold to an individual patron in a
4972 size of container that exceeds one liter.

4973 (b) (i) A [~~private~~] club licensee that sells beer pursuant to Subsection [~~(23)~~] (10)(a):

4974 (A) may do so without obtaining a separate on-premise beer retailer license from the
4975 commission; and

4976 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
4977 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
4978 inconsistent with or less restrictive than the operational restrictions under this chapter.

4979 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
4980 Licenses, required by Subsection [~~(23)~~] (10)(b)(i) may result in a suspension or revocation of
4981 the [~~private club's~~] club licensee's:

4982 (A) state liquor license; and

4983 (B) alcoholic beverage license issued by the local authority.

4984 [~~(24)~~] (11) An alcoholic beverage may not be stored, served, or sold in a place other
4985 than as designated in the [~~private~~] club licensee's application, unless the [~~private~~] club licensee

4986 first applies for and receives approval from the department for a change of location within the
4987 ~~[private]~~ club license.

4988 ~~[(25)]~~ (12) (a) A patron may only make an alcoholic beverage purchase in the ~~[private]~~
4989 club license premises from and be served by a person employed, designated, and trained by the
4990 ~~[private]~~ club licensee to sell, dispense, and serve an alcoholic beverage.

4991 (b) Notwithstanding Subsection ~~[(25)]~~ (12)(a), a patron who purchases bottled wine
4992 from an employee of the ~~[private]~~ club licensee or carries bottled wine onto the premises of the
4993 ~~[private]~~ club licensee pursuant to Subsection ~~[(31)]~~ (18) may thereafter serve wine from the
4994 bottle to the patron or others at the patron's table.

4995 (c) A ~~[private]~~ club licensee patron may have no more than two alcoholic beverages of
4996 any kind at a time before the ~~[private]~~ club licensee patron, subject to the limitation of
4997 Subsection ~~[(20)]~~ (7)(d).

4998 ~~[(26)]~~ (13) The liquor storage area shall remain locked at all times other than those
4999 hours and days when liquor sales and service are authorized by law.

5000 ~~[(27)]~~ (14) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished
5001 at a ~~[private]~~ club license premises on any day after 1 a.m. or before 10 a.m.

5002 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
5003 Licenses, for on-premise beer licenses.

5004 (c) (i) Notwithstanding Subsections ~~[(27)]~~ (14)(a) and (b), a ~~[private]~~ club license
5005 premises shall remain open for one hour after the ~~[private]~~ club licensee ceases the sale and
5006 service of an alcoholic beverage during which time a patron of the ~~[private]~~ club licensee may
5007 finish consuming:

5008 (A) a single drink containing spirituous liquor;

5009 (B) a single serving of wine not exceeding five ounces;

5010 (C) a single serving of heavy beer;

5011 (D) a single serving of beer not exceeding 26 ounces; or

5012 (E) a single serving of a flavored malt beverage.

5013 (ii) A ~~[private]~~ club licensee is not required to remain open:

5014 (A) after all patrons have vacated the premises; or

5015 (B) during an emergency.

5016 (d) Between the hours of 2 a.m. and 10 a.m. on any day a ~~[private]~~ club licensee may
5017 not allow a patron to remain on the premises of the ~~[private]~~ club licensee to consume an
5018 alcoholic beverage on the premises.

5019 ~~[(28)]~~ (15) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

5020 (a) minor;

5021 (b) person actually, apparently, or obviously intoxicated;

5022 (c) known habitual drunkard; or

5023 (d) known interdicted person.

5024 ~~[(29)]~~ (16) (a) (i) Liquor may be sold only at a price fixed by the commission.

5025 (ii) Liquor may not be sold at a discount price on any date or at any time.

5026 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
5027 beverage to the ~~[private]~~ club licensee.

5028 (c) An alcoholic beverage may not be sold at a special or reduced price that
5029 encourages over consumption or intoxication.

5030 (d) The price of a single serving of a primary spirituous liquor shall be the same
5031 whether served as a single drink or in conjunction with another alcoholic beverage.

5032 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
5033 hours of the ~~[private club's]~~ club licensee's business day such as a "happy hour."

5034 (f) More than one alcoholic beverage may not be sold or served for the price of a
5035 single alcoholic beverage.

5036 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or
5037 served during a set period for a fixed price.

5038 (h) A ~~[private]~~ club licensee may not engage in a promotion involving or offering free
5039 alcoholic beverages to patrons of the ~~[private]~~ club licensee.

5040 ~~[(30)]~~ (17) An alcoholic beverage may not be purchased for a patron of the ~~[private]~~
5041 club licensee by:

5042 (a) the [private] club licensee; or

5043 (b) an employee or agent of the [private] club licensee.

5044 ~~[(31)]~~ (18) (a) A person may not bring onto the premises of a [private] club licensee
5045 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
5046 discretion of the club licensee, bottled wine onto the premises of a [private] club licensee for
5047 on-premise consumption.

5048 (b) Except bottled wine under Subsection ~~[(31)]~~ (18)(a), a [private] club licensee or an
5049 officer, manager, employee, or agent of a [private] club licensee may not allow:

5050 (i) a person to bring onto the [private] club license premises an alcoholic beverage for
5051 consumption on the [private] club license premises; or

5052 (ii) consumption of an alcoholic beverage described in Subsection ~~[(31)]~~ (18)(b)(i) on
5053 the premises of the [private] club licensee.

5054 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
5055 or other representative of the [private] club licensee upon entering the [private] club license
5056 premises.

5057 (d) A wine service may be performed and a service charge assessed by the [private]
5058 club licensee as authorized by commission rule for wine carried in by a patron.

5059 ~~[(32)]~~ (19) (a) Except as provided in Subsection ~~[(32)]~~ (19)(b), a [private] club
5060 licensee or an employee of the [private] club licensee may not permit a patron of the [private]
5061 club licensee to carry from the [private] club license premises an open container that:

5062 (i) is used primarily for drinking purposes; and

5063 (ii) contains an alcoholic beverage.

5064 (b) A patron may remove the unconsumed contents of a bottle of wine if before
5065 removal, the bottle is recorked or recapped.

5066 ~~[(33)] (a) A minor may not be employed by a class A, B, or C private club licensee to~~
5067 ~~sell, dispense, or handle an alcoholic beverage.]~~

5068 ~~[(b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may~~
5069 ~~be employed by a class A or C private club licensee to enter the sale at a cash register or other~~

5070 ~~sales recording device.]~~

5071 ~~[(c) Except to the extent authorized in Subsection (8)(c), a minor may not be~~
5072 ~~employed by or be on the premises of a class D private club.]~~

5073 ~~[(d) A minor may not be employed to work in a lounge or bar area of a class A, B, or~~
5074 ~~C private club licensee.]~~

5075 ~~[(34)] (20)~~ An employee of a [private] club licensee, while on duty, may not:

5076 (a) consume an alcoholic beverage; or

5077 (b) be intoxicated.

5078 ~~[(35)] (21)~~ A [private] club licensee shall have available on the premises for a patron
5079 to review at the time that the [customer] patron requests it, a written alcoholic beverage price
5080 list or a menu containing the price of an alcoholic beverage sold or served by the [private] club
5081 licensee including:

5082 (a) a set-up charge;

5083 (b) a service charge; or

5084 (c) a chilling fee.

5085 ~~[(36)] (22)~~ A [private] club licensee shall display in a prominent place in the [private]
5086 club license premises:

5087 (a) the [private] club license that is issued by the department;

5088 (b) a list of the types and brand names of liquor being served through [its] the club
5089 licensee's calibrated metered dispensing system; and

5090 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
5091 drugs is a serious crime that is prosecuted aggressively in Utah."

5092 ~~[(37)] (23)~~ A [private] club licensee may not on the premises of the [private] club
5093 licensee:

5094 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
5095 Chapter 10, Part 11, Gambling;

5096 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
5097 Part 11, Gambling; or

5098 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
5099 requires the risking of something of value for a return or for an outcome when the return or
5100 outcome is based upon an element of chance, excluding the playing of an amusement device
5101 that confers only an immediate and unrecorded right of replay not exchangeable for value.

5102 [~~(38)~~] (24) (a) A [private] club licensee may not close or cease operation for a period
5103 longer than 240 hours, unless:

5104 (i) the [private] club licensee notifies the department in writing at least seven days
5105 before the day on which the [private] club licensee closes or ceases operation; and

5106 (ii) the closure or cessation of operation is first approved by the department.

5107 (b) Notwithstanding Subsection [~~(38)~~] (24)(a), in the case of emergency closure, the
5108 [private] club licensee shall immediately notify the department by telephone.

5109 (c) (i) The department may authorize a closure or cessation of operation for a period
5110 not to exceed 60 days.

5111 (ii) The department may extend the initial period an additional 30 days upon:

5112 (A) written request of the [private] club licensee; and

5113 (B) a showing of good cause.

5114 (iii) A closure or cessation of operation may not exceed a total of 90 days without
5115 commission approval.

5116 (d) The notice required by Subsection [~~(38)~~] (24)(a) shall include:

5117 (i) the dates of closure or cessation of operation;

5118 (ii) the reason for the closure or cessation of operation; and

5119 (iii) the date on which the [private] club licensee will reopen or resume operation.

5120 (e) Failure of the [private] club licensee to provide notice and to obtain department
5121 authorization before closure or cessation of operation results in an automatic forfeiture of:

5122 (i) the [private] club license; and

5123 (ii) the unused portion of the [private] club license fee for the remainder of the license
5124 year effective immediately.

5125 (f) Failure of the [private] club licensee to reopen or resume operation by the approved

5126 date results in an automatic forfeiture of:

5127 (i) the [private] club license; and

5128 (ii) the unused portion of the [private] club license fee for the remainder of the license
5129 year.

5130 [~~39~~] (25) A [private] club license may not be transferred from one location to
5131 another [person] location, without prior written approval of the commission.

5132 [~~40~~] (26) (a) A [private] club licensee, may not sell, transfer, assign, exchange,
5133 barter, give, or attempt in any way to dispose of the [private] club license to another person,
5134 whether for monetary gain or not.

5135 (b) A [private] club license has no monetary value for the purpose of any type of
5136 disposition.

5137 (27) Subject to Subsections (25) and (26), a club licensee may not temporarily rent or
5138 otherwise temporarily lease its premises to a person unless:

5139 (a) the person to whom the club licensee rents or leases the premises agrees in writing
5140 to comply with this section as if the person is the club licensee, except for a requirement
5141 related to maintaining a book, document, or similar record; and

5142 (b) the club licensee takes reasonable steps to ensure that the person complies with this
5143 section as provided in Subsection (26)(a).

5144 (28) A dining club licensee or social club licensee shall comply with Section
5145 32A-1-304.5.

5146 [~~41~~] (29) A [private] club licensee or an employee of the [private] club licensee may
5147 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
5148 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

5149 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
5150 58-37-2; or

5151 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
5152 Section 58-37a-3.

5153 Section 46. Section **32A-5-109** is enacted to read:

5154 **32A-5-109. Transition in types of clubs.**

5155 (1) (a) If a private club licensee is a class C private club licensee as of June 30, 2009,
5156 it renews its license in accordance with Section 32A-5-102, and it continues to meet the
5157 qualifications of a class C private club licensee:

5158 (i) the class C private club licensee shall pay a renewal fee of \$1,600; and
5159 (ii) effective July 1, 2009, the class C private club licensee is automatically converted
5160 to a dining club licensee.

5161 (b) If a private club licensee is a class D private club licensee as of June 30, 2009, it
5162 renews its license in accordance with Section 32A-5-102, and it continues to meet the
5163 qualifications of a class D private club licensee:

5164 (i) the class D private club licensee shall pay a renewal fee of \$1,600; and
5165 (ii) effective July 1, 2009, the class D private club licensee is automatically converted
5166 to a social club licensee.

5167 (c) Notwithstanding Subsection (1)(a) or (b), if at the time of renewal a class C private
5168 club licensee or class D private club licensee requests to convert effective July 1, 2009, to a
5169 different type of club license than that provided in Subsection (1)(a) or (b), the commission
5170 may approve a change in the type of club license in accordance with rules made by the
5171 commission.

5172 (2) A conversion under this section does not require a redetermination of applicable
5173 proximity requirements.

5174 Section 47. Section **32A-9-103** is amended to read:

5175 **32A-9-103. Qualifications.**

5176 (1) (a) The commission may not grant a warehousing license to any person who has
5177 been convicted of:

- 5178 (i) a felony under any federal or state law;
- 5179 (ii) any federal or state law or local ordinance concerning the sale, manufacture,
5180 distribution, warehousing, adulteration, or transportation of alcoholic beverages;
- 5181 (iii) any crime involving moral turpitude; or

5182 (iv) on two or more occasions within the five years before the day on which the license
5183 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5184 alcohol and any drug.

5185 (b) In the case of a partnership, corporation, or limited liability company the
5186 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5187 offense described in Subsection (1)(a):

5188 (i) a partner;

5189 (ii) a managing agent;

5190 (iii) a manager;

5191 (iv) an officer;

5192 (v) a director;

5193 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
5194 the applicant corporation; or

5195 (vii) a member who owns at least 20% of the applicant limited liability company.

5196 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5197 supervisory or managerial capacity for the warehouse has been convicted of any offense
5198 described in Subsection (1)(a).

5199 (2) The commission may immediately suspend or revoke a warehousing license if after
5200 the day on which the warehousing license is granted, a person described in Subsection (1)(a),
5201 (b), or (c):

5202 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5203 to the license being granted; or

5204 (b) on or after the day on which the license is granted:

5205 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5206 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5207 combined influence of alcohol and any drug; and

5208 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5209 influence of alcohol and any drug within five years before the day on which the person is

5210 convicted of the offense described in Subsection (2)(b)(ii)(A).

5211 (3) The director may take emergency action by immediately suspending the operation
5212 of the warehousing license according to the procedures and requirements of Title 63G, Chapter
5213 4, Administrative Procedures Act, for the period during which the criminal matter is being
5214 adjudicated if a person described in Subsection (1)(a), (b), or (c):

5215 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
5216 or

5217 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5218 any drug, or the combined influence of alcohol and any drug; and

5219 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5220 influence of alcohol and any drug within five years before the day on which the person is
5221 arrested on a charge described in Subsection (3)(b)(i).

5222 (4) (a) (i) The commission may not grant a warehousing license to any person who has
5223 had any type of license, agency, or permit issued under this title revoked within the last three
5224 years.

5225 (ii) The commission may not grant a warehousing license to an applicant that is a
5226 partnership, corporation, or limited liability company if any partner, managing agent,
5227 manager, officer, director, stockholder who holds at least 20% of the total issued and
5228 outstanding stock of an applicant corporation, or member who owns at least 20% of an
5229 applicant limited liability company is or was:

5230 (A) a partner or managing agent of any partnership that had any type of license,
5231 agency, or permit issued under this title revoked within the last three years;

5232 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
5233 of the total issued and outstanding stock of any corporation that had any type of license,
5234 agency, or permit issued under this title revoked within the last three years; or

5235 (C) a manager or member who owns or owned at least 20% of any limited liability
5236 company that had any type of license, agency, or permit issued under this title revoked within
5237 the last three years.

5238 (b) An applicant that is a partnership, corporation, or limited liability company may
5239 not be granted a warehousing license if any of the following had any type of license, agency,
5240 or permit issued under this title revoked while acting in that person's individual capacity
5241 within the last three years:

5242 (i) any partner or managing agent of the applicant partnership;

5243 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5244 total issued and outstanding stock of the applicant corporation; or

5245 (iii) any manager or member who owns at least 20% of the applicant limited liability
5246 company.

5247 (c) A person acting in an individual capacity may not be granted a warehousing
5248 license if that person was:

5249 (i) a partner or managing agent of a partnership that had any type of license, agency,
5250 or permit issued under this title revoked within the last three years;

5251 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5252 total issued and outstanding stock of a corporation that had any type of license, agency, or
5253 permit issued under this title revoked within the last three years; or

5254 (iii) any manager or member who owned at least 20% of a limited liability company
5255 that had any type of license, agency, or permit issued under this title revoked within the last
5256 three years.

5257 (5) (a) A minor may not be:

5258 (i) granted a warehousing license; or

5259 (ii) employed by a warehouse to handle liquor.

5260 (b) The commission may not grant a warehousing license to an applicant that is a
5261 partnership, corporation, or limited liability company if any of the following is a minor:

5262 (i) a partner or managing agent of the applicant partnership;

5263 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5264 total issued and outstanding stock of the applicant corporation; or

5265 (iii) a manager or member who owns at least 20% of the applicant limited liability

5266 company.

5267 (6) A person, through any officer, director, representative, agent, or employee, or
5268 otherwise, either directly or indirectly, may not hold at the same time both a warehousing
5269 license and any other kind of license, agency, or permit issued under [~~Title 32A,~~] Chapter 3, 4,
5270 4a, 5, 6, or 7, or Chapter 10, Part 2.

5271 (7) If any person to whom a license [~~has been issued~~] is granted under this chapter no
5272 longer possesses the qualifications required by this title for obtaining that license, the
5273 commission may suspend or revoke that license.

5274 Section 48. Section **32A-10-201** is amended to read:

5275 **32A-10-201. Commission's power to grant licenses -- Limitations.**

5276 (1) Before an establishment may sell beer at retail for on-premise consumption, it shall
5277 first obtain:

5278 (a) an on-premise beer retailer license from the commission as provided in this part;
5279 and

5280 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to
5281 sell beer at retail for on-premise consumption; or

5282 (ii) other written consent of the local authority to sell beer at retail for on-premise
5283 consumption.

5284 (2) (a) Subject to the requirements of this section and Subsection 32A-4a-201(2), the
5285 commission may [~~issue~~] grant on-premise beer retailer licenses for the purpose of establishing
5286 on-premise beer retailer outlets at places and in numbers as it considers proper for the storage,
5287 sale, and consumption of beer on premises operated as on-premise beer retailer outlets.

5288 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
5289 licenses that are taverns may not at any time aggregate more than that number determined by
5290 dividing the population of the state by 30,500.

5291 (c) For purposes of this Subsection (2), the population of the state shall be determined
5292 by:

5293 (i) the most recent United States decennial special census; or

5294 (ii) another population determination made by the United States or state governments.

5295 (d) (i) The commission may issue seasonal licenses for taverns established in areas the
5296 commission considers necessary.

5297 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

5298 (iii) An on-premise beer retailer license for a tavern issued for operation during a
5299 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.

5300 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

5301 (A) begin on May 1; and

5302 (B) end on October 31.

5303 (iv) An on-premise beer retailer license for a tavern [~~issued~~] granted for operation
5304 during a winter time period is known as a "Seasonal B" on-premise beer retailer license for a
5305 tavern. The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern
5306 shall:

5307 (A) begin on November 1; and

5308 (B) end on April 30.

5309 (v) In determining the number of tavern licenses that the commission may [~~issue~~]
5310 grant under this section:

5311 (A) a seasonal on-premise beer retailer license for a tavern is counted as [~~1/2~~] one-half
5312 of one on-premise beer retailer license for a tavern; and

5313 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
5314 a "Seasonal B" on-premise beer retailer license for a tavern.

5315 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), the premises of an
5316 on-premise beer retailer license may not be established:

5317 (i) within 600 feet of a community location, as measured by the method in Subsection
5318 (3)(e); or

5319 (ii) within 200 feet of a community location, measured in a straight line from the
5320 nearest entrance of the proposed outlet to the nearest property boundary of the community
5321 location.

5322 (b) With respect to the establishment of an on-premise beer retailer license, the
5323 commission may authorize a variance to reduce the proximity requirement of Subsection
5324 (3)(a)(i) if:

5325 (i) the local authority grants its written consent to the variance;

5326 (ii) the commission finds that alternative locations for establishing an on-premise beer
5327 retailer license in the community are limited;

5328 (iii) a public hearing is held in the city, town, or county, and where practical, in the
5329 neighborhood concerned;

5330 (iv) after giving full consideration to all of the attending circumstances and the
5331 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
5332 establishing the license would not be detrimental to the public health, peace, safety, and
5333 welfare of the community; and

5334 (v) (A) the community location governing authority gives its written consent to the
5335 variance; or

5336 (B) when written consent is not given by the community location governing authority,
5337 the commission finds that the applicant has established that:

5338 (I) there is substantial unmet public demand to consume alcohol in a public setting
5339 within the geographic boundary of the local authority in which the on-premise beer retailer
5340 licensee is to be located;

5341 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
5342 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise
5343 beer retailer license; and

5344 (III) there is no reasonably viable alternative location within the geographic boundary
5345 of the local authority in which the on-premise beer retailer licensee is to be located for
5346 establishing an on-premise beer retailer license to satisfy the unmet demand described in
5347 Subsection (3)(b)(v)(B)(I).

5348 (c) With respect to the establishment of an on-premise beer retailer license, the
5349 commission may authorize a variance that reduces the proximity requirement of Subsection

5350 (3)(a)(ii) if:

5351 (i) the community location at issue is:

5352 (A) a public library; or

5353 (B) a public park;

5354 (ii) the local authority grants its written consent to the variance;

5355 (iii) the commission finds that alternative locations for establishing an on-premise beer

5356 retailer license in the community are limited;

5357 (iv) a public hearing is held in the city, town, or county, and where practical in the

5358 neighborhood concerned;

5359 (v) after giving full consideration to all of the attending circumstances and the policies

5360 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the

5361 on-premise beer retailer license would not be detrimental to the public health, peace, safety,

5362 and welfare of the community; and

5363 (vi) (A) the community location governing authority gives its written consent to the

5364 variance; or

5365 (B) when written consent is not given by the community location governing authority,

5366 the commission finds that the applicant has established that:

5367 (I) there is substantial unmet public demand to consume alcohol in a public setting

5368 within the geographic boundary of the local authority in which the on-premise beer retailer

5369 licensee is to be located;

5370 (II) there is no reasonably viable alternative for satisfying substantial unmet demand

5371 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of an on-premise

5372 beer retailer license; and

5373 (III) there is no reasonably viable alternative location within the geographic boundary

5374 of the local authority in which the on-premise beer retailer licensee is to be located for

5375 establishing an on-premise beer retailer license to satisfy the unmet demand described in

5376 Subsection (3)(c)(vi)(B)(I).

5377 (d) (i) With respect to an on-premise beer retailer license [~~issued~~] granted by the

5378 commission before July 1, 1991, to an establishment that undergoes a change in ownership
5379 after that date, the commission may waive or vary the proximity requirements of this
5380 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new
5381 owner.

5382 (ii) With respect to the premises of an on-premise beer retailer license [~~issued~~] granted
5383 by the commission that undergoes a change of ownership, the commission may waive or vary
5384 the proximity requirements of Subsection (3)(a) in considering whether to grant an on-premise
5385 beer retailer license to the new owner of the premises if:

5386 (A) (I) the premises previously received a variance from the proximity requirement of
5387 Subsection (3)(a)(i); or

5388 (II) the premises received a variance from the proximity requirement of Subsection
5389 (3)(a)(ii) on or before May 4, 2008; or

5390 (B) a variance from proximity requirements was otherwise allowed under this title.

5391 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
5392 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
5393 the property boundary of the community location.

5394 (4) (a) Nothing in this section prevents the commission from considering the
5395 proximity of any educational, religious, and recreational facility, or any other relevant factor in
5396 reaching a decision on a proposed location.

5397 (b) For purposes of this Subsection (4), "educational facility" includes:

5398 (i) a nursery school;

5399 (ii) an infant day care center; and

5400 (iii) a trade and technical school.

5401 Section 49. Section **32A-10-202** is amended to read:

5402 **32A-10-202. Application and renewal requirements.**

5403 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
5404 written application with the department, in a form prescribed by the department. The
5405 application shall be accompanied by:

- 5406 (a) a nonrefundable \$250 application fee;
- 5407 (b) an initial license fee that is refundable if a license is not granted in the following
- 5408 amount:
- 5409 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
- 5410 license fee is \$150; or
- 5411 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
- 5412 \$1,250;
- 5413 (c) written consent of the local authority or a license to sell beer at retail for
- 5414 on-premise consumption granted by the local authority under Section 32A-10-101;
- 5415 (d) a copy of the applicant's current business license;
- 5416 (e) evidence of proximity to any community location, with proximity requirements
- 5417 being governed by Section 32A-10-201;
- 5418 (f) a bond as specified by Section 32A-10-205;
- 5419 (g) a floor plan of the premises, including consumption areas and the area where the
- 5420 applicant proposes to keep, store, and sell beer;
- 5421 (h) evidence that the on-premise beer retailer licensee is carrying public liability
- 5422 insurance in an amount and form satisfactory to the department;
- 5423 (i) for a licensee that sells more than \$5,000 of beer annually, evidence that the
- 5424 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least
- 5425 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;
- 5426 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
- 5427 any authorized representative of the commission, department, or any peace officer unrestricted
- 5428 right to enter the licensee premises;
- 5429 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 5430 company, proper verification evidencing that the person or persons signing the on-premise
- 5431 beer retailer licensee application are authorized to so act on the behalf of the partnership,
- 5432 corporation, or limited liability company; and
- 5433 (l) any other information the department may require.

5434 (2) (a) ~~[AH] An~~ An on-premise beer retailer ~~[licenses expire]~~ license expires on the last
5435 day of February of each year.

5436 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
5437 person's on-premise beer retailer license shall submit by no later than January 31:

5438 (A) a completed renewal application to the department; and

5439 (B) a renewal fee in the following amount:

5440 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
5441 is \$200; or

5442 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
5443 \$1,000.

5444 (ii) A licensee is not required to submit a renewal fee if the licensee is:

5445 (A) a state agency; or

5446 (B) a political subdivision of the state including:

5447 (I) a county; or

5448 (II) a municipality.

5449 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
5450 the license, effective on the date the existing license expires.

5451 (d) A renewal statement shall be in a form as prescribed by the department.

5452 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
5453 suspend or revoke a beer retailer license if a beer retailer licensee does not immediately notify
5454 the department of any change in:

5455 (a) ownership of the beer retailer;

5456 (b) for a corporate owner, the:

5457 (i) corporate officers or directors; and

5458 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5459 corporation; or

5460 (c) for a limited liability company:

5461 (i) managers; or

5462 (ii) members owning at least 20% of the limited liability company.

5463 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d),

5464 and (f) if the applicant is:

5465 (a) a state agency; or

5466 (b) a political subdivision of the state including:

5467 (i) a county; or

5468 (ii) a municipality.

5469 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
5470 license is required for each building or resort facility owned or leased by the same applicant.

5471 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
5472 retail beer dispensing outlet located in the same building or on the same resort premises owned
5473 or operated by the same applicant.

5474 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing
5475 outlets in the building or resort facility operate in the same manner.

5476 (ii) If the condition described in Subsection (5)(c)(i) is not met:

5477 (A) one state on-premise beer retailer tavern license is required for all outlets in the
5478 same building or on the same resort premises that operate as a tavern; and

5479 (B) one state on-premise beer retailer license is required for all outlets in the same
5480 building or on the same resort premises that do not operate as a tavern.

5481 Section 50. Section **32A-12-101** is amended to read:

5482 **32A-12-101. Applicability of Utah Criminal Code.**

5483 Except as otherwise provided, Title 76, Chapters 1, 2, 3, and 4[, the Utah Criminal
5484 Code, relating to principles of construction, jurisdiction, venue, limitations of actions, multiple
5485 prosecutions, double jeopardy, burdens of proof, definitions, principles of criminal
5486 responsibility, punishments, and inchoate offenses apply to any criminal offense defined in
5487 this title, except as otherwise provided], apply to the prosecution of a criminal offense defined
5488 in this chapter or expressly identified as a criminal offense in this title.

5489 Section 51. Section **32A-12-102** is amended to read:

5490 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**

5491 (1) In ~~[any]~~ a prosecution of an offense defined in this title or in ~~[any]~~ a proceeding
5492 brought to enforce this title:

5493 (a) it is not necessary that the state or commission establish:

5494 (i) the precise description or quantity of ~~[the]~~ an alcoholic ~~[beverages]~~ beverage or
5495 alcoholic product; or ~~[products or]~~

5496 (ii) the precise consideration, if any, given or received for ~~[the]~~ an alcoholic
5497 ~~[beverages or products]~~ beverage or alcoholic product;

5498 (b) there is an inference, absent proof to the contrary, that ~~[the]~~ an alcoholic beverage
5499 or alcoholic product in question is an alcoholic beverage or alcoholic product if the witness
5500 describes it:

5501 (i) as an alcoholic beverage or alcoholic product;

5502 (ii) by a name that is commonly applied to an alcoholic beverage or alcoholic product;

5503 or

5504 (iii) as intoxicating;

5505 (c) if it is alleged that an association or corporation has violated this title, the fact of
5506 the incorporation of the association or corporation is presumed absent proof to the contrary;

5507 (d) a certificate or report signed or purporting to be signed by any state chemist,
5508 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of
5509 ~~[any]~~ an alcoholic beverage or alcoholic product is:

5510 (i) prima facie evidence:

5511 (A) of the facts stated in that certificate or report; and

5512 (B) of the authority of the person giving or making the report; and

5513 (ii) admissible in evidence without any proof of appointment or signature absent proof
5514 to the contrary; and

5515 (e) a copy of entries made in the records of the United States internal revenue
5516 collector, certified by the collector or a qualified notary public, showing the payment of the
5517 United States internal revenue special tax for the manufacture or sale of an alcoholic

5518 [~~beverages or products~~] beverage or alcoholic product is prima facie evidence of the
5519 manufacture or sale by the party named in the entry within the period set forth in the record.

5520 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,
5521 or consumption of an alcoholic [~~beverages or products~~] beverage or alcoholic product, it is not
5522 necessary that the state or commission establish that any money or other consideration actually
5523 passed or that an alcoholic beverage or alcoholic product was actually consumed if the court or
5524 trier of fact is satisfied that:

5525 (i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or

5526 (ii) [~~any~~] consumption of an alcoholic [~~beverages or products~~] beverage or alcoholic
5527 product was about to occur.

5528 (b) Proof of consumption or intended consumption of an alcoholic beverage or
5529 alcoholic product on premises on which consumption is prohibited, by some person not
5530 authorized to consume an alcoholic [~~beverages or products~~] beverage or alcoholic product on
5531 those premises, is evidence that an alcoholic beverage or alcoholic product was sold or given
5532 to or purchased by the person consuming, about to consume, or carrying away the alcoholic
5533 beverage or alcoholic product as against the occupant of the premises.

5534 (3) For purposes of a provision applicable under this chapter to a retail licensee or
5535 officer, manager, employee, or agent of a retail licensee, the provision is applicable to a resort
5536 licensee or a person operating under a sublicense of the resort licensee.

5537 (4) Notwithstanding the other provisions of this chapter, a criminal offense identified
5538 in this title as a criminal offense may not be enforced under this chapter if the criminal offense
5539 relates to a violation:

5540 (a) of a provision in this title related to intoxication or becoming intoxicated; and

5541 (b) if the violation is first investigated by a law enforcement officer, as defined in
5542 Section 53-13-103, who has not received training regarding the requirements of this title
5543 related to responsible alcoholic beverage sale or service.

5544 Section 52. Section **32A-12-104** is amended to read:

5545 **32A-12-104. Violation of title a misdemeanor.**

5546 ~~[Any person who violates this title]~~

5547 (1) Unless otherwise provided in this title, a person is guilty of a class B

5548 misdemeanor~~[-, unless otherwise provided in this title:-] if that person violates:~~

5549 (a) this chapter; or

5550 (b) a provision of this title that is expressly identified as a criminal offense.

5551 (2) This section is not applicable to an adjudicative proceeding under Section

5552 32A-1-119, but only:

5553 (a) makes a violation described in Subsection (1) a criminal offense; and

5554 (b) establishes a penalty for a violation described in Subsection (1) that is prosecuted

5555 criminally.

5556 Section 53. Section **32A-12-209.5** is amended to read:

5557 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

5558 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
5559 premises of:

5560 (a) a tavern; or

5561 (b) a ~~[class D private club]~~ social club licensee, except to the extent authorized by

5562 Subsection 32A-5-107~~[(8)](2)(d)~~.

5563 (2) A minor who violates this section is guilty of a class C misdemeanor.

5564 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
5565 by a court to have violated this section:

5566 (a) if the violation is the minor's first violation of this section, the court may suspend
5567 the minor's driving privileges; or

5568 (b) if the violation is the minor's second or subsequent violation of this section, the
5569 court shall suspend the minor's driving privileges.

5570 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
5571 by a court to have violated this section, ~~[the provisions regarding suspension of the driver's~~
5572 ~~license under] Section 78A-6-606 [apply] applies to the violation.~~

5573 (5) When the court issues an order suspending a person's driving privileges for a

5574 violation of this section, the Driver License Division shall suspend the person's license under
5575 Section 53-3-219.

5576 (6) When the Department of Public Safety receives the arrest or conviction record of a
5577 person for a driving offense committed while the person's license is suspended pursuant to this
5578 section, the ~~[department]~~ Department of Public Safety shall extend the suspension for an
5579 additional like period of time.

5580 Section 54. Section **32A-12-212** is amended to read:

5581 **32A-12-212. Unlawful possession -- Exceptions.**

5582 (1) A person may not have or possess within this state ~~[any]~~ liquor unless authorized
5583 by this title or the rules of the commission, except that:

5584 (a) a person who clears United States Customs when entering this country may have or
5585 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
5586 purchased from without the United States;

5587 (b) a person who moves the person's residence to this state from outside of this state
5588 may have or possess for personal consumption and not for sale or resale, liquor previously
5589 purchased outside the state and brought into this state during the move, if:

5590 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
5591 state; and

5592 ~~[(ii) the department affixes the official state label to the liquor; and]~~

5593 ~~[(iii)]~~ (ii) the person pays the department a reasonable administrative handling fee as
5594 determined by the commission;

5595 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
5596 outside the state, may have or possess the liquor and transport or cause the liquor to be
5597 transported into the state if:

5598 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the
5599 state;

5600 (ii) the person provides sufficient documentation to the department to establish the
5601 person's legal right to the liquor as a beneficiary; and

5602 [~~(iii) the department affixes the official state label to the liquor; and]~~
5603 [~~(iv)~~] (iii) the person pays the department a reasonable administrative handling fee as
5604 determined by the commission; or
5605 (d) a person may transport, have, or possess liquor if:
5606 (i) the person transports, has, or possesses the liquor:
5607 (A) for personal household use and consumption; and
5608 (B) not for:
5609 (I) sale;
5610 (II) resale;
5611 (III) gifting to another; or
5612 (IV) consumption on a premise licensed by the commission;
5613 (ii) the liquor is purchased from a store or outlet on a military installation; and
5614 (iii) the maximum amount the person transports, has, or possesses under this
5615 Subsection (1)(d) is:
5616 (A) two liters of:
5617 (I) spirituous liquor;
5618 (II) wine; or
5619 (III) a combination of spirituous liquor and wine; and
5620 (B) (I) one case of heavy beer that does not exceed 288 ounces; or
5621 (II) [~~on or after October 1, 2008,~~] one case of a flavored malt beverage that does not
5622 exceed 288 ounces.
5623 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
5624 (i) is transferring the person's permanent residence to this state; or
5625 (ii) maintains separate residences both in and out of this state.
5626 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
5627 than once.
5628 Section 55. Section **32A-12-213** is amended to read:
5629 **32A-12-213. Unlawful bringing onto premises for consumption.**

- 5630 (1) Except as provided in Subsection (3), a person may not bring for on-premise
 5631 consumption ~~[any]~~ an alcoholic beverage onto the premises of ~~[any]~~:
- 5632 (a) a licensed or unlicensed restaurant;
 5633 (b) a licensed or unlicensed ~~[private]~~ club;
 5634 (c) an airport lounge licensee;
 5635 (d) an on-premise banquet licensee;
 5636 (e) an on-premise beer retailer licensee;
 5637 (f) a resort licensee;
 5638 (g) a sublicense of a resort licensee;
 5639 ~~[(f)]~~ (h) an event where an alcoholic ~~[beverages are]~~ beverage is sold or served under a
 5640 single event permit or temporary special event beer permit issued under this title; or
 5641 ~~[(g)]~~ (i) any establishment open to the general public.
- 5642 (2) Except as provided in Subsection (3), ~~[a licensed or unlicensed restaurant or~~
 5643 ~~private club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer~~
 5644 ~~licensee, or holder of a single event permit or temporary special event beer permit issued under~~
 5645 ~~this title, or its officers, managers, employees, or agents]~~ the following may not allow a person
 5646 to bring onto its premises ~~[any]~~ an alcoholic beverage for on-premise consumption or allow
 5647 consumption of ~~[any such]~~ an alcoholic beverage brought onto its premises in violation of this
 5648 section[-]:
- 5649 (a) a licensed or unlicensed restaurant;
 5650 (b) a licensed or unlicensed club;
 5651 (c) an airport lounge licensee;
 5652 (d) an on-premise banquet licensee;
 5653 (e) a resort licensee in relationship to:
 5654 (i) the boundary of a resort building; or
 5655 (ii) a sublicense premises;
 5656 (f) a person operating a sublicense of a resort license;
 5657 (g) an on-premise beer retailer licensee;

5658 (h) a holder of a single event permit or temporary special event beer permit issued
5659 under this title; or

5660 (i) an officer, manager, employee, or agent of a person listed in Subsections (2)(a)
5661 through (h).

5662 (3) (a) A person may bring bottled wine onto the premises of [~~any~~] a restaurant liquor
5663 licensee, limited restaurant licensee, resort spa sublicense, or [~~private~~] club licensee and
5664 consume the wine pursuant to the applicable restrictions contained in Subsection
5665 32A-4-106(14), 32A-4-307(14), 32A-4a-305(22), or 32A-5-107[~~(31)~~] (18).

5666 (b) [~~a~~] A passenger of a limousine may bring onto, have, and consume [~~any~~] an
5667 alcoholic beverage on the limousine if:

5668 (i) the travel of the limousine begins and ends at:

5669 (A) the residence of the passenger;

5670 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

5671 (C) the temporary domicile of the passenger; and

5672 (ii) the driver of the limousine is separated from the passengers by partition or other
5673 means approved by the department[;].

5674 (c) [~~a~~] A passenger of a chartered bus may bring onto, have, and consume [~~any~~] an
5675 alcoholic beverage on the chartered bus:

5676 (i) (A) but may consume only during travel to a specified destination of the chartered
5677 bus and not during travel back to the place where the travel begins; or

5678 (B) if the travel of the chartered bus begins and ends at:

5679 (I) the residence of the passenger;

5680 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

5681 (III) the temporary domicile of the passenger; and

5682 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
5683 chartered bus to monitor consumption[; ~~and~~].

5684 (d) [~~a~~] A person may bring onto any premises, have, and consume [~~any~~] an alcoholic
5685 beverage at a privately hosted event that is not open to the general public.

5686 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of an alcoholic
5687 [~~beverages in limousines and chartered buses~~] beverage in a limousine or chartered bus is not
5688 allowed if the limousine or chartered bus drops off [~~passengers at locations from which they~~
5689 ~~depart in private vehicles~~] a passenger at a location from which the passenger departs in a
5690 private vehicle.

5691 Section 56. Section **32A-12-219** is amended to read:

5692 **32A-12-219. Unlawful adulteration -- Licensing tampering.**

5693 (1) For purposes of this section, "tamper" means to do one or more of the following to
5694 the contents of a package:

5695 (a) fortify;

5696 (b) adulterate;

5697 (c) contaminate;

5698 (d) dilute;

5699 (e) change its character or purity; or

5700 (f) otherwise change.

5701 (2) A person may not, for any purpose, mix or allow to be mixed [any drug, methylic
5702 alcohol, any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious
5703 substance or liquid] with an alcoholic beverage sold or supplied by the person as a beverage[;]
5704 any of the following:

5705 (a) a drug;

5706 (b) methylic alcohol;

5707 (c) a crude, unrectified, or impure form of ethylic alcohol; or

5708 (d) another deleterious substance.

5709 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

5710 (i) a retail licensee;

5711 (ii) a permittee;

5712 (iii) a package agent;

5713 (iv) a beer wholesaler;

- 5714 (v) a supplier;
- 5715 (vi) an importer; or
- 5716 (vii) a warehouse.
- 5717 (b) A person listed in Subsection (3)(a) may not:
- 5718 (i) tamper with the contents of a package of alcoholic beverage as originally marketed
- 5719 by a manufacturer;
- 5720 (ii) refill or partly refill with any substance the contents of an original package of
- 5721 alcoholic beverage as originally marketed by a manufacturer;
- 5722 (iii) misrepresent the brand of an alcoholic beverage sold or offered for sale; or
- 5723 (iv) sell or serve a brand of alcoholic beverage that is not the same as that ordered by a
- 5724 purchaser without first advising the purchaser of the difference.

5725 Section 57. Section **32A-12-222** is amended to read:

5726 **32A-12-222. Unlawful dispensing.**

5727 (1) For purposes of this section:

5728 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

5729 (b) "primary spirituous liquor" does not include a secondary alcoholic product used as
5730 a flavoring in conjunction with the primary distilled spirit in the beverage.

5731 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
5732 liquor for consumption on the licensed premises, or an officer, manager, employee, or agent of
5733 the licensee may not:

5734 (a) sell, serve, dispense, or otherwise furnish a primary spirituous liquor to a person on
5735 the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage
5736 dispensed through a calibrated metered dispensing system approved by the department;

5737 (b) sell, serve, dispense, or otherwise furnish more than a total of 2.5 ounces of
5738 spirituous liquor per beverage;

5739 (c) allow ~~any~~ a person on the licensed premises to have more than a total of 2.5
5740 ounces of spirituous liquor at a time;

5741 (d) allow ~~any~~ a person on the premises of the following to have more than one

5742 spirituous liquor beverage at a time:

5743 (i) a restaurant liquor licensee;

5744 (ii) an on-premise banquet licensee; ~~or~~

5745 (iii) one of the following sublicenses of a resort license:

5746 (A) a restaurant sublicense; or

5747 (B) a limited restaurant sublicense; or

5748 ~~(iii)~~ (iv) a single event permittee; or

5749 (e) allow ~~any~~ a person to have more than two spirituous liquor beverages at a time in

5750 violation of:

5751 (i) Subsection 32A-4-206(2)(d); ~~or~~

5752 (ii) Subsection 32A-4a-305(10)(c)(ii); or

5753 ~~(ii)~~ (iii) Subsection 32A-5-107~~(20)~~(7)(d).

5754 (3) A violation of this section is a class C misdemeanor.

5755 Section 58. Section **32A-12-301** is amended to read:

5756 **32A-12-301. Operating without a license or permit.**

5757 (1) (a) A person may not operate the following businesses without first obtaining a

5758 license under this title if the business allows a ~~[patron, customer, member, guest, visitor, or~~

5759 ~~other person]~~ person described in Subsection (1)(b) to purchase or consume an alcoholic

5760 beverage on the premises of the business:

5761 ~~(a)~~ (i) a restaurant;

5762 ~~(b)~~ (ii) an airport lounge;

5763 ~~(c)~~ (iii) a ~~[private]~~ club license;

5764 (iv) a resort;

5765 ~~(d)~~ (v) an on-premise beer retailer outlet;

5766 ~~(e)~~ (vi) on-premise banquet premises; or

5767 ~~(f)~~ (vii) a business similar to one listed in Subsections (1)(a)(i) through ~~(e)~~ (vi).

5768 (b) Subsection (1)(a) applies if one of the following is allowed to purchase or consume

5769 an alcoholic beverage on the premises of the business:

- 5770 (i) a patron;
- 5771 (ii) a customer;
- 5772 (iii) a member;
- 5773 (iv) a guest;
- 5774 (v) a resident of a resort;
- 5775 (vi) a holder of a customer card under Chapter 4a, Part 3, Resort Spa Sublicense; or
- 5776 (vii) an invitee.
- 5777 (2) A person conducting an event or function that is open to the general public may
- 5778 not directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a
- 5779 person attending the event or function without first obtaining a permit under this title.
- 5780 (3) A person conducting a privately hosted event or private social function may not
- 5781 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the
- 5782 privately hosted event or private social function without first obtaining a permit under this
- 5783 title.
- 5784 (4) A person may not operate the following businesses without first obtaining a license
- 5785 under this title:
- 5786 (a) a winery manufacturer;
- 5787 (b) a distillery manufacturer;
- 5788 (c) a brewery manufacturer;
- 5789 (d) a local industry representative of:
- 5790 (i) a manufacturer of an alcoholic beverage;
- 5791 (ii) a supplier of an alcoholic beverage; or
- 5792 (iii) an importer of an alcoholic beverage;
- 5793 (e) a liquor warehouse; or
- 5794 (f) a beer wholesaler.
- 5795 (5) A person may not operate a public conveyance in this state without first obtaining
- 5796 a public service permit under this title if that public conveyance allows a person to purchase or
- 5797 consume an alcoholic beverage or alcoholic product:

5798 (a) on the public conveyance; or

5799 (b) on the premises of a hospitality room located with a depot, terminal, or similar
5800 facility at which a service is provided to a patron of the public conveyance.

5801 Section 59. Section **32A-14a-102** is amended to read:

5802 **32A-14a-102. Liability for injuries and damage resulting from distribution of**
5803 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

5804 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection
5805 (1)(b) is liable for:

5806 (i) any and all injury and damage, except punitive damages to:

5807 (A) any third person; or

5808 (B) the heir, as defined in Section 78B-3-105, of that third person; or

5809 (ii) for the death of a third person.

5810 (b) A person is liable under Subsection (1)(a) if:

5811 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:

5812 (A) to a person described in Subsection (1)(b)(ii); and

5813 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
5814 consumption of alcoholic products;

5815 (ii) those actions cause the intoxication of:

5816 (A) any individual under the age of 21 years;

5817 (B) any individual who is apparently under the influence of intoxicating alcoholic
5818 products or drugs;

5819 (C) any individual whom the person furnishing the alcoholic beverage knew or should
5820 have known from the circumstances was under the influence of intoxicating alcoholic
5821 beverages or products or drugs; or

5822 (D) any individual who is a known interdicted person; and

5823 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
5824 the individual who is provided the alcoholic beverage.

5825 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable

5826 for:

5827 (i) any and all injury and damage, except punitive damages to:

5828 (A) any third person; or

5829 (B) the heir, as defined in Section 78B-3-105, of that third person; or

5830 (ii) for the death of the third person.

5831 (b) A person is liable under Subsection (2)(a) if:

5832 (i) that person directly gives or otherwise provides an alcoholic beverage to an
5833 individual who the person knows or should have known is under the age of 21 years;

5834 (ii) those actions caused the intoxication of the individual provided the alcoholic
5835 beverage;

5836 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
5837 the individual who is provided the alcoholic beverage; and

5838 (iv) the person is not liable under Subsection (1), because the person did not directly
5839 give or provide the alcoholic beverage as part of the commercial sale, storage, service,
5840 manufacture, distribution, or consumption of alcoholic products.

5841 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its
5842 employees in violation of this chapter.

5843 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action
5844 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

5845 (5) If a person having rights or liabilities under this chapter dies, the rights or
5846 liabilities provided by this chapter survive to or against that person's estate.

5847 (6) The total amount that may be awarded to any person pursuant to a cause of action
5848 for injury and damage under this chapter that arises after [~~January 1, 1998~~] January 1, 2010, is
5849 limited to [~~\$500,000~~] \$1,000,000 and the aggregate amount which may be awarded to all
5850 persons injured as a result of one occurrence is limited to [~~\$1,000,000~~] \$2,000,000.

5851 (7) An action based upon a cause of action under this chapter shall be commenced
5852 within two years after the date of the injury and damage.

5853 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery

5854 against the person causing the injury.

5855 (b) Any cause of action or additional recovery against the person causing the injury
5856 and damage, which action is not brought under this chapter, is exempt from the damage cap in
5857 Subsection (6).

5858 (c) Any cause of action brought under this chapter is exempt from Sections 78B-5-817
5859 through 78B-5-823.

5860 (9) This section does not apply to a business licensed under Chapter 10, Part 1,
5861 General Provisions, to sell beer at retail only for off-premise consumption.

5862 Section 60. Section **32A-14a-103** is amended to read:

5863 **32A-14a-103. Employee protected in exercising judgment.**

5864 (1) An employer may not sanction or terminate the employment of an employee of a
5865 restaurant, airport lounge, [~~private~~] on-premise banquet licensee, resort, club licensee,
5866 on-premise beer retailer, or any other establishment serving an alcoholic [~~beverages~~] beverage
5867 as a result of the employee having exercised the employee's independent judgment to refuse to
5868 sell an alcoholic [~~beverages~~] beverage to [~~any~~] a person the employee considers to meet one or
5869 more of the conditions described in Subsection 32A-14a-102(1).

5870 (2) [~~Any~~] An employer who terminates an employee or imposes sanctions on the
5871 employee contrary to this section is considered to have discriminated against that employee
5872 and is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah
5873 Antidiscrimination Act.

5874 Section 61. Section **53-10-305** is amended to read:

5875 **53-10-305. Duties of bureau chief.**

5876 The bureau chief, with the consent of the commissioner, shall do the following:

5877 (1) conduct in conjunction with the state boards of education and higher education in
5878 state schools, colleges, and universities, an educational program concerning alcoholic
5879 products, and work in conjunction with civic organizations, churches, local units of
5880 government, and other organizations in the prevention of alcoholic product and drug
5881 violations;

5882 (2) coordinate law enforcement programs throughout the state and accumulate and
5883 disseminate information related to the prevention, detection, and control of violations of this
5884 chapter and Title 32A, Alcoholic Beverage Control Act, as it relates to storage or consumption
5885 of alcoholic beverages on premises maintained by [~~social clubs, recreational, athletic, and~~
5886 ~~kindred associations~~] a club licensee, or a person required to be licensed as a club licensee, as
5887 defined in Section 32A-1-105;

5888 (3) make inspections and investigations as required by the commission and the
5889 Department of Alcoholic Beverage Control;

5890 (4) perform other acts as may be necessary or appropriate concerning control of the
5891 use of alcoholic beverages and products and drugs; and

5892 (5) make reports and recommendations to the Legislature, the governor, the
5893 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
5894 required or requested.

5895 Section 62. **Repealer.**

5896 This bill repeals:

5897 Section 32A-12-218, **Unlawful labeling or lack of label.**

5898 Section 63. **Study of penalties for violations related to minors.**

5899 (1) As used in this section:

5900 (a) "Commission" means the Alcoholic Beverage Commission created in Section
5901 32A-1-106.

5902 (b) "Violation related to a minor" means a violation under Title 32A, Alcoholic
5903 Beverage Control Act, that is, in whole or in part, based on a licensee, permittee, or an
5904 employee or agent of the licensee or permittee:

5905 (i) selling, serving, or otherwise furnishing an alcoholic product to a minor;

5906 (ii) purchasing or otherwise obtaining an alcoholic product for a minor;

5907 (iii) permitting a minor to consume an alcoholic product;

5908 (iv) permitting a minor to gain admittance to an area into which a minor is not
5909 permitted under Title 32A, Alcoholic Beverage Control Act; or

5910 (v) offering or providing employment to a minor that under Title 32A, Alcoholic
5911 Beverage Control Act, may not be obtained by a minor.

5912 (2) (a) The commission shall review the penalties imposed by the commission for a
5913 violation related to a minor beginning on January 1, 2005 and ending December 31, 2008.

5914 (b) The commission shall address in its review the following:

5915 (i) trends, if any, in the severity of the penalties;

5916 (ii) circumstances affecting the penalties imposed;

5917 (iii) the purpose and effectiveness of the penalties;

5918 (iv) other issues as determined by the commission; and

5919 (v) whether the commission should recommend legislative action related to the
5920 imposition of a penalty.

5921 (c) The commission shall report its findings and recommendations described in
5922 Subsection (2)(b) to the Business and Labor Interim Committee on or before the October 2009
5923 interim meeting.

5924 Section 64. **Effective date.**

5925 (1) This bill takes effect on May 12, 2009 except:

5926 (a) the amendments in this bill to the following take effect on July 1, 2009:

5927 (i) Section 32A-5-101;

5928 (ii) Section 32A-5-102, except for Subsection 32A-5-102(1)(j);

5929 (iii) Section 32A-5-103 (Effective 07/01/09);

5930 (iv) Section 32A-5-104;

5931 (v) Section 32A-5-106;

5932 (vi) Section 32A-5-107;

5933 (vii) Section 11-10-1;

5934 (viii) Section 26-38-2;

5935 (ix) Section 26-38-3;

5936 (x) Subsections 32A-1-105(12), (23), (35), and the existing (64) that defines a
5937 "visitor";

5938 (xi) Section 32A-1-304.5;
5939 (xii) Section 32A-1-603;
5940 (xiii) Section 32A-12-209.5; and
5941 (xiv) Section 53-10-305;
5942 (b) the amendments in this bill to the following take effect on January 1, 2010:
5943 (i) Section 32A-4-102;
5944 (ii) Section 32A-4-202;
5945 (iii) Section 32A-4-303;
5946 (iv) Section 32A-4-402;
5947 (v) Section 32A-10-202; and
5948 (vi) Section 32A-14a-102; and
5949 (c) Subsection 32A-5-102(1)(j) takes effect on July 1, 2010.
5950 (2) During the 2009 interim, the Business and Labor Interim Committee shall:
5951 (a) study whether or not a club licensee can reasonably obtain dramshop insurance
5952 coverage of the amounts required by the amendments in this bill to Subsection
5953 32A-5-102(1)(j); and
5954 (b) make a recommendation to the Legislature regarding any changes to Subsection
5955 32A-5-102(1)(j) for consideration during the 2010 General Session.
5956 Section 65. **Revisor instructions for S.B. 187.**
5957 If this S.B. 187 passes, it is the intent of the Legislature that the Office of Legislative
5958 Research and General Counsel in preparing the Utah Code database that takes effect July 1,
5959 2009, for publication replace "private club" or "private club licensee" with "club licensee" in
5960 any new language added to the Utah Code by legislation passed during the 2009 General
5961 Session, if the context of the terms clearly indicates that the terms "private club" or "private
5962 club licensee" refer to a private club licensed under Title 32A, Chapter 5.