

Application for an Initiative or Referendum  
Utah Code § 20A-7-202

Name of Organization  
**32B INITIATIVE**

Sponsor Statement

I, JEFFREY D CARTER affirm that I am registered to vote in Utah  
Name of Sponsor (please type or print)

237 F. STREET

Residence Address

[Signature]  
Sponsor's Signature

SALT LAKE CITY, UT 84103

City, State, Zip

801-448-5217

Phone Number

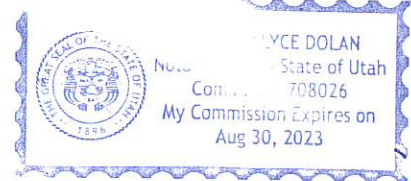
Notary Seal

SPARTAGHENA@gmail.com

Email

Subscribed and affirmed before me this 8 day of JUNE 2023

by [Signature]  
Notary Public



Sponsor Statement

I, Johanna McMullin affirm that I am a registered to vote in Utah  
Name of Sponsor (please type or print)

237 F Street

Residence Address

[Signature]  
Sponsor's Signature

Salt Lake City, Utah 84103

City, State, Zip

801-463-1998

Phone Number

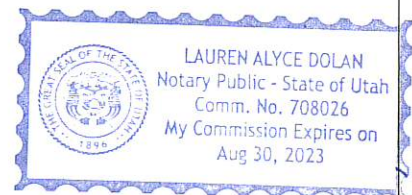
Notary Seal

jmac4269@gmail.com

Email

Subscribed and affirmed before me this 8 day of JUNE 2023

by [Signature]  
Notary Public



Received

JUN 09 2023

Deidre M. Henderson  
Lieutenant Governor

# Application for an Initiative or Referendum

Utah Code § 20A-7-202



**PLEASE NOTE:** A copy of the law must be attached to this application along with a statement indicating whether or not signature gatherers will be paid for their services.

Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, Jason Cowan affirm that I am registered to vote in Utah  
Name of Sponsor (please type or print)

1510 S. Devonshire Dr  
Residence Address

Salt Lake City, UT 84108  
City, State, Zip

801-910-1037  
Phone Number

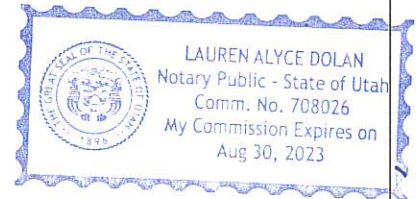
[Signature]  
Sponsor's Signature

Notary Seal

jasonm.cowan@gmail.com  
Email

Subscribed and affirmed before me this 8 day of JUNE 2023.

by [Signature]  
Notary Public



## Sponsor Statement

I, Jared C Jensen affirm that I am registered to vote in Utah  
Name of Sponsor (please type or print)

4752 S. COOPERS HAWK BAY  
Residence Address

MILLCREEK, UT 84117  
City, State, Zip

801-557-7826  
Phone Number

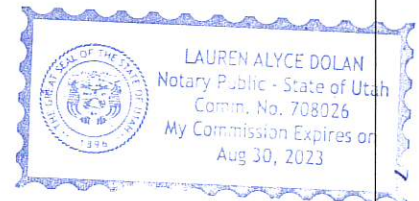
[Signature]  
Sponsor's Signature

Notary Seal

JARED C JENSEN@GMAIL.COM  
Email

Subscribed and affirmed before me this 8 day of JUNE 2023.

by [Signature]  
Notary Public



### To File This Form

Mail or deliver to:  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133

**For More Information Call or Visit:**  
(801) 538-1041  
1-800-995-VOTE (8683)  
elections.utah.gov



# Application for an Initiative or Referendum

Utah Code § 20A-7-202



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Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, Ryan Vance affirm that I am registered to vote in Utah  
Name of Sponsor (please type or print)

12298 Margaret Rose Dr.  
Residence Address

[Signature]  
Sponsor's Signature

Riverton, UT 84065  
City, State, Zip

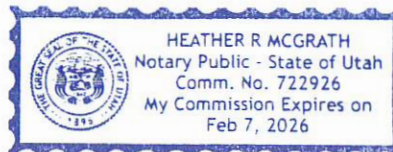
801-652-7870  
Phone Number

Notary Seal

rv.vance@gmail.com  
Email

Subscribed and affirmed before me this 5th day of June 2023.

by [Signature]  
Notary Public



## Sponsor Statement

I, McKenzie Jackson affirm that I am registered to vote in Utah  
Name of Sponsor (please type or print)

2030 Roberta St.  
Residence Address

[Signature]  
Sponsor's Signature

Salt Lake City, UT 84115  
City, State, Zip

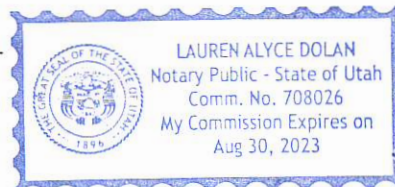
(435) 849-4274  
Phone Number

Notary Seal

mckenzieallen@msn.com  
Email

Subscribed and affirmed before me this 8 day of JUNE 2023.

by [Signature]  
Notary Public



### To File This Form

Mail or deliver to:  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133

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June 5, 2023

The Honorable Deidre M. Henderson  
Utah Lieutenant Governor's Office  
Utah State Capitol Building, Suite 220  
Salt Lake City, Utah 84114-2325

Re: Citizens' Initiative to Amend and Modify Title 32B. Alcoholic Beverage Control Act  
Application

Lieutenant Governor Henderson,

We submit herewith, Citizens Initiative to Amend and Modify Title 32B. Alcoholic Beverage Control Act Petition Application to a vote of the people for approval or rejection on the 2024 General Election Ballot. We are the sponsors of this statewide initiative. **The people gathering signatures for this initiative may be paid for their work and contributions.**

The citizens of the State of Utah find: the state government violates section 32B-1-103 (1), Policy, by operating a monopoly on the distribution, pricing, and retail sale of wine, liquor, heavy beer, and flavored malt beverages that is prejudiced due to endemic partisan politics and influenced by specific religious special interests. Additionally, the Utah Department of Alcoholic Beverage Services violates 32B-1-103 (2), Policy, by initiating, implementing, and abusing unsound business management, principles, and practices. The department is consistently behind national trends, fails the basic concept of supply and demand, and cannot meet the current population's needs. Furthermore, the purchasing department repeatedly demonstrates partiality and corruption by favoring certain suppliers, brokers, and manufacturers.

Although the state was granted the right to regulate alcohol after prohibition, the present system of buying and retailing liquor discriminates against outside business interests and in-state manufacturers, supports economic protectionism, burdens taxpayers with excessive tariffs, restricts trade and commerce, and violates antitrust laws and the U.S. Commerce Clause. Monopolizing the sale of alcoholic beverages over 5% alcohol by volume due to fiscal or public health concerns are perpetuated entirely on the faulty logic that these products should be treated differently than any other legal consumer product. Moreover, the notion that employees working in a state-run liquor system possess superior training than that of those in the private sector is illogical.

As a result, imbibing citizens are continually offended and enraged at inconvenient hours, limited offerings, out-of-stocks, and high prices caused by excessive taxation, leading many to buy these products from other states out of spite. Consumers driving to out-of-state liquor stores hinders public safety, causes an increase in carbon emissions, and unnecessarily directs

money that could be spent in Utah into border states. Current Utah alcohol control laws are antiquated, inefficient, costly to businesses, suppliers, and taxpayers. State government-run liquor retail business practices are antithetical to America's economic system of trade and industry controlled by private ownership, supply and demand, and the consumers' inherent freedoms over choice and competitive pricing.

The State of Utah has demonstrated that it is not dependent on revenue from the sale of liquor, as evident from the "billion-dollar-plus rainy-day fund" and recent tax cuts. Tariffs imposed on imbibing citizens and tourists from the state tax markup on liquor directs revenue into a "general fund" that contributes to goods, services, and programs at higher rates than citizens who choose not to imbibe and redirects these resources to areas unrelated to the businesses that sell alcohol. Therefore, the people of Utah demand to remove outdated restrictions and modernize Utah Code Title 32B by enacting wholesale distribution and private retail sales of liquor, wine, heavy beer, and flavored malt beverages.

A wholesale system significantly eliminates out-of-state liquor purchases, delivers sufficient tax revenue, reduces traffic violations and carbon emissions while continuing to protect public safety. This initiative will create numerous job opportunities, provide superior efficiencies for licensees, suppliers, in-state manufacturers, and ultimately afford consumers the inherent capitalistic freedoms granted by the United States of America.

With seventeen plus years of experience as a past alcoholic beverage industry member, and twenty years of restaurant experience, I am the author of the initiative, and will be the main point of contact.

Sincerely,

Jeffrey Carter  
spartaghina@gmail.com  
237 F Street  
Salt Lake City, Utah 84103  
801-448-5217

UTAH DABS					
CONTROL FISCAL YEAR ending June 30th 2022					
2022 UDABS Fiscal Actual			Estimated Revenue as a Wholesale Entity at 30%		
Gross Operating Revenue =	\$	557,452	Gross Operating Revenue at 30% Markup =	\$	393,832
Cost of Liquor =	\$	302,948	Cost of Liquor =	\$	302,948
Gross Profit =	\$	254,504	Gross Profit =	\$	90,884
Other income (Permits, Licenses, Fees) =	\$	6,317	Other income (Permits, Licenses, Fees) =	\$	8,175
Total Operating Revenue =	\$	260,821	Total Operating Revenue =	\$	99,059
Expenses			Estimated Expenses after sale of 42 liquor stores		
Salaries, Wages & Benefits =	\$	26,202	Salaries, Wages & Benefits =	\$	15,473
Credit Card Fees =	\$	7,991	Credit Card Fees =	\$	1,249
Maintenance & Repairs/ Operating Supplies =	\$	5,510	Maintenance & Repairs/ Operating Supplies =	\$	1,332
Depreciation =	\$	4,621	Depreciation =	\$	1,400
Data Processing =	\$	3,806	Data Processing =	\$	685
Delivery to Stores =	\$	3,698	Delivery to Stores =	\$	844
Package Agency Contracts =	\$	3,365	Package Agency Contracts =	\$	-
Alcohol Education Media Campaign =	\$	2,970	Alcohol Education Media Campaign =	\$	3,938
Professional & Tech. Services =	\$	483	Professional & Tech. Services =	\$	291
Rentals and Leases =	\$	498	Rentals and Leases =	\$	59
Postage, Printing & Supplies =	\$	679	Postage, Printing & Supplies =	\$	63
Liquor Bags =	\$	644	Liquor Bags =	\$	-
Telephone =	\$	270	Telephone =	\$	58
Insurance and Bonds =	\$	176	Insurance and Bonds =	\$	68
Travel Expenses =	\$	123	Travel Expenses =	\$	37
Misc. Other Expenses =	\$	94	Misc. Other Expenses =	\$	63
Total Operating Expenses =	\$	61,130	Total Operating Expenses =	\$	25,560
Net Operating Revenue =	\$	199,691	Net Operating Revenue =	\$	73,499
Federal Revenue from Bonds =	\$	(260)	Federal Revenue from Bonds =	\$	(290)
Gain (Loss) on Sale of Capitol Assets =	\$	-	Estimated Gain (Loss) on Sale of Capitol Assets =		
Interest on Bonds and Notes =	\$	2,913	Interest on Bonds and Notes =	\$	3,000
Transfer to Underage Drinking Program =	\$	1,750	Transfer to Underage Drinking Program =	\$	1,750
Transfer to School Lunch/Uniform School and Public Safety =	\$	60,616	Transfer to School Lunch/Uniform School and Public Safety =	\$	65,455
Total Non Operating Expenses =	\$	-	Total Non Operating Expenses =	\$	-
Net Profit to State =	\$	134,672	First year total net profit to state without considering lower liquor costs due to direct shipping =	\$	3,584
			First year Net Profit to State plus funds from the sale of 42 liquor stores =	\$	3,584
			Estimated \$\$ difference in gross profit at 30% markup flowing into Utah businesses who sell alcohol before DABS Expenses =	\$	163,620

Estimated Revenue as a Wholesale Entity with 25% lower liquor costs		Estimated Revenue as a Wholesale Entity with 40% lower liquor costs	
With direct shippers fulfilling 25% of liquor orders and remitting 30% wholesale tax to the state, the profitability factor increases because the department's cost of liquor goes down.		With direct shippers fulfilling 40% of liquor orders	
Gross Operating Revenue at 30% Markup =	\$ 393,832	Gross Operating Revenue at 30% Markup =	\$ 393,832
Cost of Liquor minus 25% due to direct shippers fulfilling orders =	\$ 227,211	Cost of Liquor minus 40% due to direct shippers fulfilling orders =	\$ 181,769
Gross Profit =	\$ 166,621	Gross Profit =	\$ 212,063
Other income (Permits, Licenses, Fees) =	\$ 8,175	Other income (Permits, Licenses, Fees) =	\$ 8,175
Total Operating Revenue =	\$ 174,796	Total Operating Revenue =	\$ 220,238
Estimated Expenses after sale of 42 liquor stores		Estimated Expenses after sale of 42 liquor stores	
Salaries, Wages & Benefits =	\$ 15,473	Salaries, Wages & Benefits =	\$ 15,473
Credit Card Fees =	\$ 1,249	Credit Card Fees =	\$ 1,249
Maintenance & Repairs/ Operating Supplies =	\$ 1,332	Maintenance & Repairs/ Operating Supplies =	\$ 1,332
Depreciation =	\$ 1,400	Depreciation =	\$ 1,400
Data Processing =	\$ 685	Data Processing =	\$ 685
Delivery to Stores =	\$ 844	Delivery to Stores =	\$ 844
Package Agency Contracts =	\$ -	Package Agency Contracts =	\$ -
Alcohol Education Media Campaign =	\$ 3,938	Alcohol Education Media Campaign =	\$ 3,938
Professional & Tech. Services =	\$ 291	Professional & Tech. Services =	\$ 291
Rentals and Leases =	\$ 59	Rentals and Leases =	\$ 59
Postage, Printing & Supplies =	\$ 63	Postage, Printing & Supplies =	\$ 63
Liquor Bags =	\$ -	Liquor Bags =	\$ -
Telephone =	\$ 58	Telephone =	\$ 58
Insurance and Bonds =	\$ 68	Insurance and Bonds =	\$ 68
Travel Expenses =	\$ 37	Travel Expenses =	\$ 37
Misc. Other Expenses =	\$ 63	Misc. Other Expenses =	\$ 63
Total Operating Expenses =	\$ 25,560	Total Operating Expenses =	\$ 25,560
Net Operating Revenue =	\$ 149,236	Net Operating Revenue =	\$ 194,678
Federal Revenue from Bonds =	\$ (290)	Federal Revenue from Bonds =	\$ (290)
Estimated Gain (Loss) on Sale of Capitol Assets =		Estimated Gain (Loss) on Sale of Capitol Assets =	
Interest on Bonds and Notes =	\$ 3,000	Interest on Bonds and Notes =	\$ 3,000
Transfer to Underage Drinking Program =	\$ 1,750	Transfer to Underage Drinking Program =	\$ 1,750
Transfer to School Lunch/Uniform School and Public Safety =	\$ 65,455	Transfer to School Lunch/Uniform School and Public Safety =	\$ 65,455
Total Non Operating Expenses =	\$ -	Total Non Operating Expenses =	\$ -
First year net profit due to 25% lower liquor costs from direct shipping =	\$ 79,321	Second year net profit due to 40% lower liquor costs from direct shipping =	\$ 124,763

# **Citizens' Initiative to Amend and Modify Title 32B. Alcoholic Beverage Control Act**

## **LONG TITLE**

### **General Description:**

This initiative petition of the people seeks to amend, repeal, and enact specific sections, subsections, and chapters within Utah Code Title 32B. The focus point of these changes is shifting government-run retail liquor sales to wholesale distribution and private retail sales, thus transforming the Utah Department of Alcoholic Beverage Services into a wholesale entity. In addition, industry representatives will be granted certain duties that, within Federal Law, allow them to operate in a similar fashion to their counterparts in other states with a wholesale system.

### **Statement of Intent and Subject:**

This citizen's initiative will redirect \$163,620+ million dollars to the businesses that sell alcoholic beverages and continue to serve as a tax revenue source to the state while significantly reducing government expenditures. This will require selling all but 8 state owned liquor stores and altering the current tax markup percentages on spirituous liquor, wine, heavy beer, and flavored malt beverages established in Utah Code Title 32B. Private retail liquor sales necessitates the creation of three new chapters under Title 32B identified as: Chapter 19, Liquor Store License Act, Chapter 20, Direct Shipping Wholesaler License Act, Chapter 21, Wine Club Direct License Act, and amending Chapter 2, Part 6 Package Agency as a license for retailing liquor.

### **Highlighted Provisions:**

#### **Funding and Financial Elements**

The percentages established to fund certain state programs from the sale of alcohol in Utah State Code Title 32B require altering to continue to support the budgets for the Uniform School Fund, Underage Drinking Programs, and Department of Public Safety. Therefore, the following measures are necessary and fully endorsed.

#### **Decreases**

- This initiative petition seeks to decrease the current markup tax rate of 88% on spirituous liquor, wine, and flavored malt beverages listed under 32B-2-304 (2)(a), (2)(b), and (2)(d) by 58%, resulting in a 58% decrease in the current tax rate to a flat tax rate of 30%.



- This initiative petition seeks to decrease the current markup tax rate of 66.5% on heavy beer listed under 32B-2-304 (2)(c) by 36.5%, resulting in a 36.5% decrease in the current tax rate to a flat tax rate of 30%.
- This initiative petition seeks to repeal and decrease the current tax markup of 49% for the small production discount on spirituous liquor and wine listed under 32B-2-304 (3)(b) and (3)(c) by 19%, resulting in a 19% decrease in the current tax rate. A flat tax rate of 30% will be instituted on all products over 5% ABV.
- This initiative petition seeks to repeal and decrease the current tax markup of 32% for the small brewery discount on heavy beer listed under 32B-2-304 (3)(d) by 2%, resulting in a 2% decrease in the current tax rate. A flat tax rate of 30% will be instituted on all products over 5% ABV.
- This initiative petition seeks to repeal and decrease the current markup tax of 88% listed under 32B-2-304 (4) by 76%, resulting in a 76% decrease in the current tax rate to a tax rate of 12%. The wine subscription program listed under 32B, Chapter 2, Part 7, is repealed and replaced under new Chapter 21, Wine Club Direct License Act.

### **Increases**

- This initiative petition seeks to increase the current rate of 10% on total gross revenue listed under 32B-2-304 (5) Uniform School Fund by 4.22%, resulting in a 4.22% increase in the current tax rate to account for the decrease in UDABS total gross revenue.
- This initiative petition seeks to increase the current rate of 1.695% on total gross revenue listed under 32B-2-305 (4) Department of Public Safety by .705%, resulting in a .705% increase in the current tax rate to account for the decrease in total gross revenue.
- This initiative petition seeks to increase the current rate of .06% listed under 32B-2-306 (3) Underage Drinking Prevention Media and Education Campaign Restricted Account by .4%, resulting in a .4% increase in the current tax rate to account for the decreases in gross revenue.
- The increase in funding is necessary to maintain and increase these vital programs.

### **Money Appropriated and Redistributed**

- This initiative petition seeks to appropriate and redistribute **\$163,620+ million** tax dollars from topline gross sales tax revenue positively impacting Utah businesses that sell alcoholic beverages while remaining a viable source of tax income to the state. All figures cited in reference to the 87<sup>th</sup> Annual Report produced by the Utah Department of Alcoholic Beverage Services ending June 30<sup>th</sup>, 2022.
- City and county sales tax revenues will produce the same, or similar, return from licensees retailing liquor across the state to the end consumer.

### **Additional Elements Connected to Annual Tax Revenue**

- This initiative petition seeks to retain the 17% tax markup on spirituous liquor and wine sold to military installations by the department listed under 32B-2-304 (3)(a) and enacts

17% tax markup from spirituous liquor and wine sales made by manufacturer licensees licensed under Chapter 11, Manufacturing and Related Licenses Act, and direct shipping wholesalers licensed under new Chapter 20, Direct Shipping Wholesaler License Act.

- This initiative petition seeks to terminate Package Agency Agreements under 32B, Chapter 2, Part 6 and establish a new off-premise retail license type known as 32B, Chapter 2, Part 6 Package Agency License, thereby allowing package agencies to profit from the sale of liquor. This will reduce costs by **\$3,365+ million** annually. The population quota for package agencies is decreased from 18,000 to 16,000 creating 58 new licenses for grocery and big-box stores to apply for a license within proximity requirements. Newly licensed package agencies will be required to sell spirituous liquor, wine, heavy beer, beer, and flavored malt beverages in an enclosed area establishing a barrier from the general public.
- This initiative petition seeks to remove the responsibility of selling heavy beer and certain flavored malt beverages from the UDABS and authorizes beer wholesalers the task of selling these products and requires their suppliers remit 30% tax markup to the department. This will reduce inventory at the UDABS and therefore the cost of liquor, thus increasing profitability. Beer wholesalers maintain and operate a business model that is extremely efficient, accountable, and fully capable.
- This initiative petition seeks to authorize manufacturers, licensed under Chapter 11, Manufacturing and Related License Act, the capability to direct ship their products to licensees and remit 30% tax markup to the department on all in-state shipments. The current model of state-run retail distribution is discriminative and handicaps Utah manufacturers. A wholesale model allows them to compete against massive national and international brands. Fostering these valuable businesses benefits the state through added job creation, taxation, and infrastructure development.
- This initiative petition seeks to enact new Chapter 19, Liquor Store License Act, allowing a person to buy or lease and apply for licensing to a previously run state-owned liquor store. The population quota for liquor stores is increased from 48,000 to 54,000 allowing fewer liquor store outlets due to a decrease in the package agency quota and licensing of new package agency outlets.
- This initiative petition seeks to enact new Chapter 20, Direct Shipping Wholesaler License Act, and institute a 30% markup on all spirituous liquor and wine direct shipments to licensees. As Direct Shipping Wholesalers remit 30% tax on shipments to licensees across Utah, inventory is reduced at the UDABS, the cost of liquor is decreased, and profitability increases. The first year it is estimated that direct shipping wholesalers will supply **up to 25%** of the of the orders for spirituous liquor and wine resulting in an estimated net profit of **\$79,321+ million** dollars, and by year two **40%**, with an estimated net profit of **\$124,763+ million**, and eventually surpassing current net profit. Please see attached estimated fiscal spreadsheets illustrating impact.
- This initiative petition seeks to enact new Chapter 21, Wine Club Direct License Act, and institute a 12% markup on shipments of wine direct-to-consumer.
- This initiative petitions and instructs the UDABS commission to sell, transfer, terminate,

or sublease, all but eight, state-run liquor stores to private entities under new Chapter 22. As a result, the state will significantly benefit from the released burden of infrastructure, insurance, labor, security, maintenance, utility costs, etc. Estimated reduction in government expenditures is **\$35,570+ million** annually. Additionally, the millions generated in funds from the sale of UDABS state stores, infrastructure, and assets, will be transferred back to the state through the Liquor Control Fund. This chapter sets a timeline for the commission to follow.

- This initiative petitions to retain warehouse “club stores” 33 and 34 and instructs the UDABS commission to repurpose one state store in each of the townships of Ogden, Provo, St. George, Moab, and Vernal as “state warehouses” to serve each respective region. One additional state warehouse is authorized under the new quota to be determined by the commission that will best serve a particular region.
- **The people gathering signatures for this initiative may be paid for their work and contributions.**

#### **Special Clauses:**

- Under 32B-2-304, decreasing or increasing the wholesale liquor tax markup is addressed until the year 2060 by enacting (7), (7)(a), (7)(b), and (7)(c) through a vote by the people in a general election.

## **Citizens' Initiative to Amend and Modify Title 32B. Alcoholic Beverage Control Act**

*Be it Declared by the People of the State of Utah this Initiative altering State Code Title 32B. Alcoholic Beverage Control Act Amendments, Repeals, and Enactments:*

An act to amend, repeal, and enact Utah State liquor laws defined under Code Title 32B:

### **Amended and renumbered as needed:**

32B-1-102 Definitions. (14)(b), (57), (62)(f), (62)(g), (82), (83), (83)(a), (84), (85), (85)(a), (85)(b)(i), (85)(b)(ii), (86), (87), (88), (89), (90), (90)(g)(i), (91), (92), (93), (94), (95), (96), (97), (98), (99), (100), (101), (101)(b), (102), (103), (104), (105), (106), (107), (108), (109), (110), (111), (112), (113), (113)(m), (113)(n), (114), (115), (115)(m), (115)(n), (116), (117), (118), (119), (119)(c), (120), (121), (122), (123), (124), (125), (126), (127), (128), (129), (130), (131), (131)(a), (131)(b), (131)(b)(i), (132), (133), (134), (135), (136), (137), (138), (139), (139)(c), (140), (141). 32B-1-103 (4). 32B-1-104 (1)(a), (2)(b). 32B-1-201 (1)(b)(i), (1)(c), (1)(e), (1)(e)(i), (2)(b), (2)(c), (3), (4), (4)(a), (4)(b). 32B-1-202 (1)(a)(i)(A), (1)(a)(i)(B), (1)(a)(i)(C). 32B-1-202.1 (3). 32B-1-204 (2)(a). 32B-1-206 (1)(a)(i), (1)(a)(ii), (1)(a)(iii), (1)(a)(iv), (1)(a)(v), (1)(b), (2)(b), (3)(b). 32B-1-207 Prologue, (1), (2), (3). 32B-1-304 Title, (1)(a), (1)(a)(i), (1)(a)(ii), (1)(a)(iii), (1)(c), (2), (2)(a), (2)(b), (3), (4)(a)(i), (4)(a)(ii), (4)(a)(ii)(A), (4)(a)(ii)(B), (4)(a)(ii)(C), (4)(b), (4)(c), (4)(c)(i), (4)(c)(ii), (4)(c)(iii), (5)(a), (5)(b), (5)(c), (6). 32B-1-305 (2)(b), (2)(c), (2)(d), (2)(e), (2)(e)(i), (2)(e)(ii), (3)(a), (3)(b), (4)(a), (4)(b). 32B-1-306 (6), (7), (8), (9), (10), (11), (12). 32B-1-407 (1)(e), (1)(f), (3)(c), (3)(d), (6)(b). 32B-1-701 (1), (2)(a), (3), (4)(a), (4)(b). 32B-1-703 (1)(a), (1)(b), (1)(c), (1)(c)(i), (1)(c)(ii). 32B-1-704 (1)(a), (1)(a)(ii), (1)(a)(iv), (2)(a), (2)(b), (4)(a), (4)(a)(i), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (4)(c)(ii), (5)(a), (5)(b). 32B-2-202 (1)(c)(i), (1)(c)(ii), (1)(d), (1)(e), (1)(e)(i), (1)(f)(i), (1)(f)(ii), (1)(g), (1)(i), (2)(a), (2)(b), (2)(c). 32B-2-206 (4)(b), (5), (6)(a), (6)(k), (6)(l). 32B-2-207 (4)(a), (4)(b), (4)(c), (4)(d), (5)(a)(i), (5)(a)(ii). 32B-2-209 (2)(a), (2)(b), (2)(e)(i), (2)(e)(ii), (2)(f), (3)(a), (3)(b), (3)(d)(i), (3)(d)(ii), (3)(e), (4), (5)(a). 32B-2-212 (1), (2). 32B-2-301 (5)(b), (5)(c), (5)(d), (5)(d)(i), (5)(d)(ii), (5)(d)(iii), (5)(d)(iv), (6)(a). 32B-2-302 (1)(a). 32B-2-304 (1)(a)(ii), (2)(a), (2)(b), (2)(c), (2)(d), (3)(a), (4), (5), (6). 32B-2-305 (4). 32B-2-306 (3). 32B-2-307 Title, (1), (2), (5)(a), (5)(b), (6)(a)(ii). 32B-2-402 (2)(b)(i), (2)(b)(ii), (2)(b)(iii). 32B-2-404 (1)(b)(iii)(A), (1)(b)(iii)(B). 32B Chapter 2, Part 5 Title. 32B-2-501 Title, (1), (2), (3), (4), (5)(a), (5)(a)(i), (5)(a)(ii). 32B-2-502 Title, (1)(a), (2), (2)(a), (2)(b), (2)(c), (2)(c)(iii)(F). 32B-2-503 Title, (1)(a), (2), (3), (4)(a), (4)(a)(i), (4)(a)(ii), (5)(a), (5)(b), (6)(a), (6)(b), (6)(c), (6)(d), (7)(a), (7)(b). 32B-2-504 Title, (1). 32B Chapter 2, Part 6 Title. 32B-2-601 Title, (1)(a), (1)(b), (2)(a), (2)(b)(i), (2)(b)(ii), (2)(b)(iii), (2)(b)(iv), (2)(b)(v), (2)(b)(v)(A), (2)(b)(v)(B), (2)(c)(i), (2)(c)(i)(B), (2)(c)(ii), (3)(a), (4). 32B-2-602 Title, (1), (2), (2)(b), (2)(c), (2)(d), (2)(e), (2)(f), (2)(g), (2)(h), (2)(i), (2)(j), (3), (4), (5). 32B-2-603 Title, (1)(a), (2), (2)(c), (2)(d), (2)(d)(ii)(F), (2)(e), (2)(e)(iii), (2)(e)(v). 32B-2-604 Title, (1), (2), (2)(a), (3), (4), (4)(b), (5), (5)(a), (5)(b)(i), (5)(b)(ii), (6), (6)(a), (6)(b). 32B-2-605 Title, (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(c)(iii), (1)(c)(iv), (1)(c)(v), (2)(a), (2)(a)(ii), (2)(b)(ii), (2)(d), (2)(f)(i), (2)(g), (3)(a), (4), (5)(a), (6), (7)(a), (7)(b), (7)(b)(i), (7)(b)(ii), (7)(b)(iii), (8), (9)(a), (9)(b)(i), (9)(b)(i)(A), (9)(b)(i)(B), (10)(a), (10)(a)(i), (10)(b), (10)(c)(ii), (10)(d)(iii), (10)(e), (10)(f), (11), (12)(a), (12)(b), (13)(a)(i), (13)(a)(ii), (13)(b), (13)(b)(i), (13)(b)(ii), (13)(c)(i), (14)(a), (14)(b), (14)(c), (14)(d), (15)(a), (15)(b), (15)(c), (15)(c)(i), (15)(c)(iii)(A), (15)(c)(iii)(B), (16), (17), (18), (19). 32B-2-606 Title, (1). 32B Chapter 2, Part 8, Consumer Purchasing System 32B-2-801 Definitions., (1). 32B-2-802 Consumer Purchasing System., (1)(a)(ii), (1)(b)(i), (1)(b)(ii), (1)(b)(ii)(B), (2)(b), (2)(c). 32B-2-803 Rulemaking. 32B-3-204 (5)(a)(ii)(G). 32B-3-205 (2)(a)(i). 32B-3-206 (1)(b), (1)(b)(i). 32B-4-209 (1)(b)(i), (1)(b)(ii), (1)(b)(iii), (1)(b)(iv), (1)(b)(v). 32B-4-401 (2), (2)(d)(ii), (3)(a), (3)(b), (3)(b)(i), (3)(b)(ii), (4)(a)(iv)(B), (4)(b)(ii), (4)(c)(ii), (4)(d)(ii), (5)(a), (5)(b)(i), (5)(b)(i)(A), (5)(b)(i)(B). 32B-4-406 (2)(a), (2)(b), (2)(c). 32B-4-417 (2), (3). 32B-4-420 (3)(a)(i), (3)(a)(ii), (3)(a)(iii), (3)(a)(iv), (3)(a)(v), (3)(a)(vi), (3)(a)(vii). 32B-4-422 (1). 32B-4-501 (4)(f). 32B-4-704 (7)(a)(ii), (7)(b)(i)(B), (7)(c), (7)(c)(ii), (7)(e). 32B-4-705 (3)(a), (3)(b), (3)(c), (8)(a)(ii), (8)(d)(i),



(12)(b)(ii)(A). 32B-5-102 Definitions. Prologue 32B-5-203 (2)(c)(ii)(D). 32B-5-303 (1)(a), (1)(b), (2)(a)(i), (2)(a)(i)(B), (2)(b)(i). 32B-5-304 (2)(b)(i), (2)(b)(ii), (3), (4). 32B-5-305 (1)(a), (2)(a). 32B-6-603 (1)(c). 32B-7-407 Title, (1), (2)(a), (2)(b). 32B-7-409 (2)(a)(ii). 32B-8-401 (2)(a)(iii), (2)(b)(iii). 32B-8b-301 (2)(a)(iii), (2)(b)(iii). 32B-8c-301 (2)(a)(iii), (2)(b)(iii). 32B-9-305 (3), (5)(d), (6), (8), (9). 32B-10-206 (4)(a), (4)(c). 32B-10-304 (2)(b), (2)(b)(i), (2)(b)(ii), (3)(a)(iv)(A), (3)(a)(iv)(A)(I), (3)(a)(iv)(A)(II), (3)(a)(iv)(B). 32B-10-603 (1). 32B-10-604 (2). 32B-11-201 (4)(b)(i), (4)(b)(ii), (4)(b)(iii), (4)(b)(iii)(B), (4)(b)(iii)(C), (4)(e)(ii)(A), (4)(e)(ii)(B), (5)(a)(i), (5)(d)(ii)(B), (6)(a), (6)(c), (6)(d). 32B-11-204 (2)(b)(i), (3). 32B-11-208 (4), (4)(a), (4)(b). 32B-11-210 (3)(a), (5), (10)(a), (10)(b)(i). 32B-11-303 (1)(b), (1)(b)(i), (1)(b)(ii). 32B-11-403 (1)(b)(ii), (1)(b)(iii), (1)(e)(ii). 32B-11-503 (1)(b), (1)(b)(i), (1)(c), (1)(d), (1)(d)(ii), (1)(d)(iii), (1)(e), (1)(f), (1)(f)(ii), (2), (5)(a), (5)(a)(i)(B)(II), (5)(a)(ii), (5)(b), (5)(c)(i), (6)(a), (6)(d). 32B-11-504 (2). 32B-11-603 (2)(b), (5)(a). 32B-11-608 (7)(a)(i), (7)(b)(i), (7)(d)(i), (7)(g), (8)(c), (8)(e)(ii)(A), (8)(e)(ii)(B), (8)(i), (8)(j), (8)(k), (8)(l). 32B-12-204 (2). 32B-12-301 (7). 32B-13-201 (1)(a), (2)(a), (2)(b)(i), (2)(b)(ii), (2)(b)(iii)(B), (3), (3)(a), (3)(b), (3)(c). 32B-13-202 (7), (8). 32B-13-301 (5), (6), (7)(a), (7)(a)(i), (7)(a)(ii), (7)(a)(iii), (8)(a), (8)(a)(i), (8)(a)(ii), (9)(a), (9)(b), (9)(b)(i), (11)(b). 32B-14-101 (2)(a), (2)(b)(i), (2)(b)(ii). 32B-14-102 (2)(a), (5), (7). 32B-14-201 (3)(b). 32B-14-302 (1)(d), (1)(f), (1)(l), (2). 32B-14-303 (1)(d), (1)(e) (1)(i), (2). 32B-17-201 (3)(a)(i), (3)(a)(ii)(A), (3)(a)(ii)(B), (3)(b)(i)(A), (3)(b)(ii)(B). 32B-17-203 (2)(e)(ii), (2)(f)(ii). 32B-17-301.5 (1)(a).

### **Repealing:**

32B-1-102 (85)(b)(i). 32B-1-202 (1)(a)(i)(B). 32B-1-305 (2)(b), (2)(e)(i), (4)(a). 32B-1-306 (6), (8), (10), (11). 32B-2-202 (2)(b). 32B-2-206 (4)(c), (4)(d). 32B-2-207 (4)(a), (4)(c), (5)(a)(i). 32B-2-301 (5)(b), (5)(d)(v) (5)(d)(vi), (5)(d)(vii), (5)(d)(viii). 32B-2-304 (3)(b), (3)(b)(i), (3)(b)(ii), (3)(c), (3)(c)(i), (3)(c)(i)(A), (3)(c)(i)(B), (3)(c)(ii), (3)(d), (3)(d)(i) (3)(d)(ii), (3)(e), (3)(e)(i), (3)(e)(i)(A), (3)(e)(i)(B), (3)(e)(ii), (3)(f), (3)(g). 32B-2-402 (2)(b)(ii). 32B-2-503 (8). 32B-2-601 (3)(c). 32B-2-604 (1), (1)(a), (1)(a)(i), (1)(a)(i)(A), (1)(a)(i)(B), (1)(a)(ii), (1)(a)(ii)(A), (1)(a)(ii)(B), (1)(b). 32B-2-605 (1)(c)(iii), (2)(f)(ii), (5)(b), (13)(a)(i), (13)(a)(i)(A), (13)(a)(i)(B), (13)(c)(ii), (17). 32B-2-607 Title and prologue. 32B Chapter 2, Part 7, Wine Subscription Program 32B-2-701 Definitions., (1), (2), (3), (4), (5), (5)(a), (5)(b). 32B-2-702 Wine subscription program., (1), (2), (2)(a), (2)(b), (2)(c), (2)(c)(i), (2)(c)(ii), (2)(c)(iii), (2)(d), (3), (3)(a), (3)(b), (3)(c). 32B-2-703 Fees – Rulemaking., (1), (1)(a), (1)(b), (2). 32B-3-205 (2)(a)(ii). 32B-3-206 (1)(b)(ii), (3)(a), (3)(b). 32B-4-209 (1)(b)(ii). 32B-4-420 (3)(a)(i). 32B-4-705 (3)(a). 32B-9-305 (8). 32B-11-201 (4)(b)(ii), (4)(b)(ii)(A), (4)(b)(ii)(B), (5)(a)(ii), (5)(a)(ii)(A), (5)(a)(ii)(B). 32B-11-204 (2)(b)(ii). 32B-11-503 (1)(c).

### **Enacting:**

32B-1-102 (62)(h), (62)(i), (62)(j), (62)(k), (82), (82)(a), (82)(b), (83), (83)(a), (83)(b), (83)(c), (83)(d), (83)(e), (83)(f), (83)(g), (83)(h), (83)(i), (83)(j), (83)(k), (83)(l), (83)(m), (83)(n), (115)(o), (115)(p), (142), (143). 32B-1-407 (1)(g), (1)(h), (3)(e). 32B-2-202 (1)(e)(xxvii), (1)(e)(xxviii), (1)(e)(xxix), (1)(f)(iii). 32B-2-304 (2)(c)(i), (2)(d)(i), (3)(a)(i), (7), (7)(a), (7)(b), (7)(c). 32B-2-602 (2)(c), (2)(g)(i), (2)(g)(ii), (2)(g)(ii)(A), (2)(g)(ii)(B), (2)(g)(ii)(C), (2)(g)(ii)(D), (2)(g)(iii), (6). 32B-2-602.2 Renewal fees of a package agency license., (1), (2), (2)(a), (2)(b), (3.) 32B-2-605 (5)(a)(i), (5)(a)(ii), (5)(a)(iii), (7)(a)(i), (7)(a)(ii), (13)(d), (19), (20). 32B-2-605.2 Recordkeeping., (1), (1)(a), (1)(a)(i), (1)(a)(ii), (1)(a)(iii), (1)(a)(iv), (1)(a)(v), (1)(a)(vi), (1)(b), (1)(b)(i), (1)(b)(ii), (1)(b)(iii), (1)(b)(iv), (1)(b)(v), (1)(b)(vi), (2), (2)(a), (2)(b), (3), (3)(a), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (4), (5)(a), (5)(b), (6). 32B-2-606 (1)(a), (1)(a)(i), (1)(a)(ii), (1)(a)(iii). 32B-4-401 (2)(d)(iii), (2)(e), (2)(f), (2)(g), (2)(h), (3)(b)(iii), (3)(b)(iv), (3)(b)(v), (4)(a)(iv)(C), (4)(a)(v), (4)(a)(vi), (4)(a)(vii), (4)(a)(viii), (5)(b)(i)(C), (5)(b)(i)(D), (5)(b)(i)(E). 32B-4-414 (6). 32B-4-417 (3), (4), (5), (5)(a), (5)(b), (5)(b)(i). 32B-4-501 (4)(g), (4)(h). 32B-4-602 (2)(c), (2)(d), (2)(e). 32B-4-704 (7)(a)(iii), (7)(b)(i)(C). 32B-5-102 Definitions., Prologue, (1), (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (1)(m), (1)(n), (2), (2)(a), (2)(b). 32B-5-303 (1)(a)(i), (1)(a)(ii), (1)(a)(iii), (1)(a)(iii)(A). 32B-9-305 (3)(a), (3)(b), (3)(c), (3)(d), (3)(e). 32B-10-206 (4)(a)(i), (4)(a)(ii), (4)(c)(i), (4)(c)(ii). 32B-10-304 (2)(b)(iii). 32B-11-201 (4)(b)(ii)(D), (4)(b)(ii)(E), (4)(e)(ii)(C), (4)(e)(ii)(C)(I), (4)(e)(ii)(C)(II), (4)(e)(ii)(C)(III), (4)(e)(ii)(C)(IV), (4)(e)(ii)(C)(V), (4)(e)(ii)(C)(VI), (4)(e)(ii)(C)(VII), (4)(e)(ii)(C)(VIII), (5)(d)(ii)(C), (5)(d)(ii)(C)(I), (5)(d)(ii)(C)(II), (5)(d)(ii)(C)(III), (5)(d)(ii)(C)(IV), (5)(d)(ii)(C)(V), (5)(d)(ii)(C)(VI), (5)(d)(ii)(C)(VII), (5)(d)(ii)(C)(VIII), (5)(e), (5)(f), (5)(f)(i), (5)(f)(ii). 32B-11-204 (2)(c), (2)(c)(i), (2)(c)(ii), (2)(c)(iii), (2)(d), (2)(d)(i), (2)(d)(ii), (2)(d)(iii),

(2)(d)(iv), (2)(d)(v), (2)(d)(vi), (2)(d)(vii), (3) (4). 32B-11-208 (4)(c), (4)(d), (4)(e), (10). 32B-11-303 (1)(b)(ii), (1)(b)(iii), (1)(b)(iv), (1)(b)(v), (1)(b)(vi). 32B-11-403 (1)(b)(ii), (1)(b)(iii), (1)(b)(iv), (1)(b)(v), (1)(b)(vi) (1)(b)(vii). 32B-11-503 (1)(c)(iv), (1)(c)(v). 32B-11-504 (2), (3), (4). 32B-11-608 (7)(b)(iii), (7)(b)(iv), (7)(b)(v), (7)(d)(iii), (7)(d)(iv), (7)(d)(v), (8)(e)(ii)(C), (8)(j), (8)(j)(i), (8)(j)(ii), (8)(j)(iii), (8)(j)(iv), (8)(j)(iv)(A), (8)(j)(iv)(B), (8)(j)(v), (8)(j)(vi), (8)(k), (8)(k)(i), (8)(k)(ii), (8)(k)(iii), (8)(k)(iv), (8)(k)(iv)(A), (8)(k)(iv)(B), (8)(k)(v), (8)(k)(vi), (8)(l), (8)(l)(i), (8)(l)(ii), (8)(l)(iii), (8)(l)(iv), (8)(l)(iv)(A), (8)(l)(iv)(B), (8)(l)(v), (8)(l)(vi), (8)(o). 32B-13-201 (2)(b)(iv), (2)(b)(iv)(A), (2)(b)(iv)(B), (3)(d). 32B-13-301 (7)(a)(ii), (7)(a)(iii), (7)(a)(iv), (8)(a)(ii), (8)(a)(iii), (8)(a)(iv), (12), (12)(a), (12)(a)(i), (12)(a)(ii), (12)(a)(iii), (12)(a)(iv), (12)(a)(v), (12)(a)(vi). 32B-17-203 (2)(e)(ii)(A), (2)(e)(ii)(B), (2)(e)(ii)(C), (2)(f)(ii)(A), (2)(f)(ii)(B), (2)(f)(ii)(C). 32B Chapter 19, Liquor Store License Act. 32B Chapter 19, Part 1, General Provisions. 32B-19-101 Title. 32B-19-102 Definitions., (1), (1)(a). 32B Chapter 19, Part 2, Liquor Store License Local Authority. 32B-19-201 State and Local Licensing – Limitations., (1), (1)(a), (1)(b), (1)(c), (1)(d), (2). 32B Chapter 19, Part 3, Liquor Store License Enforcement Act. 32B-19-301 Title. 32B-19-302 Tracking of Enforcement Actions – Costs of Enforcement Actions., (1), (1)(a), (1)(b), (1)(b)(i), (1)(b)(ii), (1)(b)(iii), (1)(c), (2)(a), (2)(b), (2)(b)(i), (2)(b)(ii), (2)(c), (3)(a), (3)(b), (4), (4)(a), (4)(b), (4)(c), (4)(d), (5), (5)(a), (5)(b). 32B Chapter 19, Part 4, Liquor Store License State License. 32B-19-401 Commission’s Power to Issue a Liquor Store License State License., (1), (2), (3)(a), (3)(b), (3)(b)(i), (4), (4)(a), (4)(b). 32B-19-402 Application for a Liquor Store License State License – Qualifications., (1), (2), (3), (4), (5), (6), (7), (8), (9). 32B-19-403 Renewal of Liquor Store License State License., (1), (2), (2)(a), (2)(b), (3). 32B-19-404 Bond for a Liquor Store License State License., (1), (1)(a), (1)(b), (2), (3), (3)(a), (3)(b), (4)(a), (4)(b), (4)(b)(i), (4)(b)(ii), (5)(a), (5)(b). 32B-19-405 Duties of Commission and Department Before Issuing a Liquor Store License State License., (1)(a), (1)(b), (2), (2)(a), (2)(b), (2)(c), (2)(d). 32B-19-406 General Operational Requirements for a Liquor Store License., (1)(a), (1)(b), (2)(a), (2)(a)(i), (2)(a)(ii), (2)(a)(iii), (2)(a)(iv), (2)(a)(v), (3)(a), (3)(a)(i), (3)(a)(ii), (4), (4)(a), (4)(b), (5)(a), (5)(a)(i), (5)(a)(ii), (5)(b), (6), (6)(a), (6)(b), (6)(c), (6)(d), (7)(a), (7)(a)(i), (7)(a)(i)(A), (7)(a)(i)(B), (7)(a)(ii), (7)(a)(ii)(A), (7)(a)(ii)(B), (7)(a)(ii)(C), (7)(a)(ii)(D), (7)(a)(ii)(E), (7)(a)(ii)(F), (7)(a)(ii)(G), (7)(a)(ii)(H), (7)(b), (7)(c), (7)(c)(i), (7)(c)(ii), (7)(d), (7)(e), (8)(a), (8)(a)(i), (8)(a)(ii), (8)(a)(iii), (8)(a)(iii)(A), (8)(a)(iii)(B), (8)(a)(iii)(C), (8)(a)(iv), (8)(b), (8)(b)(i), (8)(b)(ii), (8)(b)(iii), (8)(b)(iv), (8)(c), (8)(c)(i), (8)(c)(ii), (8)(c)(iii), (8)(d), (9)(a), (9)(b), (10)(a), (10)(b), (10)(c), (11), (12)(a), (12)(b), (13), (14)(a), (14)(a)(i), (14)(a)(ii), (14)(b), (14)(c)(i), (14)(c)(ii), (14)(c)(iii), (14)(d), (14)(d)(i), (14)(d)(ii), (14)(d)(iii), (14)(e), (14)(f), (15), (16)(a), (16)(b). 32B-19-407 Tasting provided by a Liquor Store Licensee., (1), (1)(a), (2), (3), (3)(a), (3)(b), (3)(b)(i), (3)(b)(ii), (3)(c), (3)(d), (3)(e), (4), (4)(a), (4)(b), (5), (6)(a), (6)(b), (7)(a), (7)(b), (8), (9)(a), (9)(a)(i), (9)(a)(ii), (9)(a)(iii), (9)(b), (10), (10)(a), (10)(a)(i), (10)(a)(ii), (10)(a)(iii), (10)(a)(iv), (10)(a)(v), (11)(a), (11)(a)(i), (11)(a)(ii), (11)(a)(iii), (11)(a)(iv), (11)(a)(v), (11)(b)(i), (11)(b)(ii), (11)(c), (12). 32B-19-408 Recordkeeping., (1), (1)(a), (1)(a)(i), (1)(a)(ii), (1)(a)(iii), (1)(a)(iv), (1)(a)(v), 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## **Citizens' Initiative to Amend and Modify Title 32B. Alcoholic Beverage Control Act**

*Be it Declared by the People of the State of Utah this Initiative altering State Code Title 32B. Alcoholic Beverage Control Act Amendments, Repeals, and Enactments:*

### **SECTION 1. SECTION 32B-1-102 IS AMENDED TO READ**

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

As used in this title:

- (1) "Airport lounge" means a business location:
  - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
  - (b) that is located at an international airport or domestic airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
  - (a) beer; or
  - (b) liquor.
- (4)
  - (a) "Alcoholic product" means a product that:
    - (i) contains at least .5% of alcohol by volume; and
    - (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.
  - (b) "Alcoholic product" includes an alcoholic beverage.
  - (c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
    - (i) except as provided in Subsection (4)(d), an extract;
    - (ii) vinegar;
    - (iii) preserved nonintoxicating cider;
    - (iv) essence;
    - (v) tincture;
    - (vi) food preparation; or
    - (vii) an over-the-counter medicine.
  - (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.
- (5) "Alcohol training and education seminar" means a seminar that is:
  - (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
  - (b) described in Section 26B-5-205.
- (6) "Arena" means an enclosed building:
  - (a) that is managed by:
    - (i) the same person who owns the enclosed building;
    - (ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or
    - (iii) a person who has authority to direct or exercise control over the management or policy of each



- person who owns or manages a space in the enclosed building;
  - (b) that operates as a venue; and
  - (c) that has an occupancy capacity of at least 12,500.
- (7) “Arena license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.
- (8) “Banquet” means an event:
- (a) that is a private event or a privately sponsored event;
  - (b) that is held at one or more designated locations approved by the commission in or on the premises of:
    - (i) a hotel;
    - (ii) a resort facility;
    - (iii) a sports center;
    - (iv) a convention center;
    - (v) a performing arts facility;
    - (vi) an arena; or
    - (vii) a restaurant venue;
  - (c) for which there is a contract:
    - (i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and
    - (ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and
  - (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- (9)
- (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
  - (b) “Bar establishment license” includes:
    - (i) a dining club license;
    - (ii) an equity license;
    - (iii) a fraternal license; or
    - (iv) a bar license.
- (10) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- (11)
- (a) “Beer” means a product that:
    - (i) contains:
      - (A) at least .5% of alcohol by volume; and
      - (B) no more than 5% of alcohol by volume or 4% by weight;
    - (ii) is obtained by fermentation, infusion, or decoction of:
      - (A) malt; or
      - (B) a malt substitute; and
    - (iii) is clearly marketed, labeled, and identified as:
      - (A) beer;
      - (B) ale;
      - (C) porter;
      - (D) stout;
      - (E) lager;
      - (F) a malt;
      - (G) a malted beverage; or
      - (H) seltzer.
  - (b) “Beer” may contain:

- (i) hops extract;
- (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or
- (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:
  - (A) is used in the production of beer;
  - (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and
  - (C) does not contribute more than 10% of the overall alcohol content of the beer.
- (c) “Beer” does not include:
  - (i) a flavored malt beverage;
  - (ii) a product that contains alcohol derived from:
    - (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or
    - (B) wine; or
  - (iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- (12) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- (13) “Beer retailer” means a business that:
  - (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
  - (b) is licensed as:
    - (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or
    - (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.
- (14) “Beer wholesaling license” means a license:
  - (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
  - (b) to import for sale, or sell beer, heavy beer, and flavored malt beverages in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (15) “Billboard” means a public display used to advertise, including:
  - (a) a light device;
  - (b) a painting;
  - (c) a drawing;
  - (d) a poster;
  - (e) a sign;
  - (f) a signboard; or
  - (g) a scoreboard.
- (16) “Brewer” means a person engaged in manufacturing:
  - (a) beer;
  - (b) heavy beer; or
  - (c) a flavored malt beverage.
- (17) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (18) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (19) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
  - (a) under a single contract;
  - (b) at a fixed charge in accordance with the bus company’s tariff; and
  - (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a

driver to travel together to one or more specified destinations.

(20) "Church" means a building:

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

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(24) "Community location governing authority" means:

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

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

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

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

(27) "Convention center" means a facility that is:

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

(28)  
(a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

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

- (a) an auditor or inspector; and
- (b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

(36)  
(a) Subject to Subsection (36)(b), "dispense" means:  
(i) drawing an alcoholic product; and  
(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic

product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection (36) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license;
- (iv) a beer-only restaurant license;
- (v) a bar license;
- (vi) an on-premise beer retailer;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license; and
- (ix) a hospitality amenity license.

(37) “Dispensing structure” means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

(38) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) “Domestic airport” means an airport that:

- (a) has at least 15,000 commercial airline passenger boardings in any five-year period;
- (b) receives scheduled commercial passenger aircraft service; and
- (c) is not an international airport.

(41) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) “Event permit” means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(43) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44)

(a) “Flavored malt beverage” means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and
- (iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) “Flavored malt beverage” may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) “Flavored malt beverage” does not include beer or heavy beer.

(d) “Flavored malt beverage” is considered liquor for purposes of this title.

(45) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(46) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(47)

(a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale



or otherwise.

(b) "Furnish" includes to:

- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(50) "Health care practitioner" means:

- (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;
- (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
- (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;
- (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;
- (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
- (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and
- (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51)

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

- (i)
  - (A) contains more than 5% alcohol by volume;
  - (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or
  - (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and
- (ii) is obtained by fermentation, infusion, or decoction of:
  - (A) malt; or
  - (B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

- (i) a flavored malt beverage;
- (ii) a product that contains alcohol derived from:
  - (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or
  - (B) wine; or
- (iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

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

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

(53)

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

- (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- (ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and
- (iii)
  - (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;
  - (B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
  - (C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.
- (b) "Hotel" includes a commercial lodging establishment that:
  - (i) meets the requirements under Subsection (53)(a); and
  - (ii) has one or more privately owned dwelling units.
- (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.
- (55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.
- (56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.
- (57) "Industry representative sample" means liquor that is placed in the possession of the department or industry representative for testing, analysis, and sampling by a local industry representative on the premises of the department or the premises of a licensee to educate the local industry representative, department, or licensee of the quality and characteristics of the product.
- (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:
  - (a) law; or
  - (b) court order.
- (59) "International airport" means an airport:
  - (a) with a United States Customs and Border Protection office on the premises of the airport; and
  - (b) at which international flights may enter and depart.
- (60) "Intoxicated" or "intoxication" means that an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:
  - (a) an alcoholic product;
  - (b) a controlled substance;
  - (c) a substance having the property of releasing toxic vapors; or
  - (d) a combination of products or substances described in Subsections (60)(a) through (c).
- (61) "Investigator" means an individual who is:
  - (a) a department compliance officer; or
  - (b) a nondepartment enforcement officer.
- (62) "License" means:
  - (a) a retail license;
  - (b) a sublicense;
  - (c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License;
  - (d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
  - (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
  - (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; ~~((or))~~
  - (g) a license issued in accordance with Chapter 17, Liquor Transport License Act ~~((or))~~;
  - (h) a license issued in accordance with Chapter 2, Part 6, Package Agency License;

- (i) a license issued in accordance with Chapter 19, Liquor Store License Act;
- (j) a license issued in accordance with Chapter 20, Direct Shipping Wholesaler License Act; or
- (k) a license issued in accordance with Chapter 21, Wine Club Direct License Act.

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

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

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

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66)

(a)

(i) "Liquor" means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and

(B)

- (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- (b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(70) "Local authority" means:

- (a) for premises that are located in an unincorporated area of a county, the governing body of a county;
- (b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or
- (c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

- (a) rice;
- (b) grain;
- (c) bran;
- (d) glucose;
- (e) sugar; or

(f) molasses.

(73) “Manufacture” means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(74) “Member” means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(75) (a) “Military installation” means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i)

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

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) “Military installation” does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

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

(77) “Minor” means an individual under 21 years old.

(78) “Nondepartment enforcement agency” means an agency that:

(a)

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

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

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

(79) “Nondepartment enforcement officer” means an individual who is:

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

(b) employed by a nondepartment enforcement agency.

(80)

(a) “Off-premise beer retailer” means a beer retailer who is:

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

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

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

(81) “Off-premise beer retailer state license” means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

#### **NEW Definitions**

(82) “Off-premise retail license” means:

(a) a license issued in accordance with Chapter 19, Liquor Store License Act; or

(b) a license issued in accordance with Chapter 2, Part 6, Package Agency License.

(83) “On-premise retail license” means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;



(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

~~(((82)))~~ (84) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

~~(((83)))~~ (85) "On-premise beer retailer" means a beer retailer who is:

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

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

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

~~(((84)))~~ (86) "Opaque" means impenetrable to sight.

~~(((85)))~~ (87) "Package agency" means a retail liquor location operated:

(a) under ~~((an agreement with))~~ a license issued by the department; and

(b) by a person:

~~(((i) other than the state; and))~~

~~(((ii)))~~ (i) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency License, to sell packaged liquor for consumption off the premises of the package agency.

~~(((86)))~~ (88) "Package agent" means a person who holds a package agency.

~~(((87)))~~ (89) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

~~(((88)))~~ (90) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

~~(((89)))~~ (91) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

~~(((90)))~~ (92) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

- (i) an out-of-state brewer;
- (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
  - (i) a person listed in Subsections ~~((90))~~ (92)(a) through (f); or
  - (ii) a package agent.

~~((91))~~ (93) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~((92))~~ (94) "Prescription" means an order issued by a health care practitioner when:

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

~~((93))~~ (95) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

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

~~((94))~~ (96) "Principal license" means:

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

~~((95))~~ (97) (a) "Private event" means a specific social, business, or recreational event:

- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
- (ii) that is limited in attendance to people who are specifically designated and their guests.
- (b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

~~((96))~~ (98) "Privately sponsored event" means a specific social, business, or recreational event:

- (a) that is held in or on the premises of an on-premise banquet licensee; and
- (b) to which entry is restricted by an admission fee.

~~((97))~~ (99) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:
  - (A) is substantially similar to an identification card;
  - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
  - (C) includes date of birth; and
  - (D) has a picture affixed;
- (iii) a valid driver license certificate that:
  - (A) includes date of birth;
  - (B) has a picture affixed; and
  - (C) is issued:
    - (I) under Title 53, Chapter 3, Uniform Driver License Act;
    - (II) in accordance with the laws of the state in which it is issued; or
    - (III) in accordance with federal law by the United States Department of State;
- (iv) a military identification card that:
  - (A) includes date of birth; and
  - (B) has a picture affixed; or
- (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

~~((98))~~ (100) "Provisions applicable to a sublicense" means:

- (a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under

Chapter 6, Part 2, Full-Service Restaurant License;

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

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

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

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

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

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

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

~~(((99)))~~ (101) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

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

~~(((100)))~~ (102) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~(((101)))~~ (103) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~(((101)))~~ (103)(a) to a third party for the third party's event.

~~(((102)))~~ (104) "Reception center license" means a license issued in accordance Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~(((103)))~~ (105) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

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

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

~~(((104)))~~ (106) "Residence" means a person's principal place of abode within Utah.

~~(((105)))~~ (107) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~(((106)))~~ (108) "Resort" means the same as that term is defined in Section 32B-8-102.

~~(((107)))~~ (109) "Resort facility" is as defined by the commission by rule.

~~(((108)))~~ (110) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and

Chapter 8, Resort License Act.

~~(((109)))~~ (111) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

- (a) over-serving alcoholic beverages to customers;
- (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (c) serving alcoholic beverages to minors.

~~(((110)))~~ (112) "Restaurant" means a business location:

- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served; and
- (c) that is engaged primarily in serving meals.

~~(((111)))~~ (113) "Restaurant license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a limited-service restaurant license; or
- (c) a beer-only restaurant license.

~~(((112)))~~ (114) "Restaurant venue" means a room within a restaurant that:

- (a) is located on the licensed premises of a restaurant licensee;
- (b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and
- (c)
  - (i) has at least 1,000 square feet that:
    - (A) may be reserved for a banquet; and
    - (B) accommodates at least 75 individuals; or
  - (ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

~~(((113)))~~ (115) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a bar establishment license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a hospitality amenity license;
- (l) a resort license;
- (m) a hotel license; ~~((or))~~
- (n) an arena license; ~~((or))~~
- (o) a package agency license; or
- (p) a liquor store license.

~~(((114)))~~ (116) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

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

~~(((115)))~~ (117) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

- (i) elementary school;

- (ii) secondary school; or
  - (iii) kindergarten.
- (b) "School" does not include:

- (i) a nursery school;
- (ii) a day care center;
- (iii) a trade and technical school;
- (iv) a preschool; or
- (v) a home school.

~~(((116)))~~ (118) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

~~(((117)))~~ (119) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~(((118)))~~ (120) "Serve" means to place an alcoholic product before an individual.

~~(((119)))~~ (121) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
  - (i) a bar licensee; or
  - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection ~~(((119)))~~ (121)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
  - (i) an employee;
  - (ii) an independent contractor;
  - (iii) an agent of the licensee; or
  - (iv) a different type of classification.

~~(((120)))~~ (122) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

~~(((121)))~~ (123) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~(((122)))~~ (124) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

- (a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and
- (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
  - (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (ii) does not sell for consumption as, or in, a beverage.

~~(((123)))~~ (125) "Small or unincorporated locality" means:

- (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- (b) a town, as classified under Section 10-2-301; or
- (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

~~(((124)))~~ (126) "Spa sublicense" means a sublicense:

- (a) to a resort license or hotel license; and
- (b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

~~(((125)))~~ (127) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~(((126)))~~ (128) (a) “Spirituous liquor” means liquor that is distilled.

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

~~(((127)))~~ (129) “Sports center” is as defined by the commission by rule.

~~(((128)))~~ (130)

(a) “Staff” means an individual who engages in activity governed by this title:

- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
- (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
- (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) “Staff” includes:

- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.

~~(((129)))~~ (131) “State of nudity” means:

(a) the appearance of:

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or

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

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.

~~(((130)))~~ (132) “State of seminudity” means a state of dress in which opaque clothing covers no more than:

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

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

- (i) with no less than the following at its widest point:
  - (A) four inches coverage width in the front of the human body; and
  - (B) five inches coverage width in the back of the human body; and
- (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~(((131)))~~ (133)

(a) “State ~~((store))~~ warehouse” means a facility for the ~~((sale))~~ wholesale of packaged liquor:

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

(b) “State ~~((store))~~ warehouse” does not include:

- (i) a package agency license;
- (ii) a licensee; or
- (iii) a permittee.

~~(((132)))~~ (134) (a) “Storage area” means an area on licensed premises where the licensee stores an alcoholic product.

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

~~(((133)))~~ (135) "Sublicense" means:

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

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a bar establishment license;
- (iv) an on-premise banquet license;
- (v) an on-premise beer retailer license;
- (vi) a beer-only restaurant license; or
- (vii) a hospitality amenity license; or

(b) a spa sublicense.

~~(((134)))~~ (136) "Supplier" means a person who wholesales or sells an alcoholic product to the department, a licensee, or permittee.

~~(((135)))~~ (137) "Tavern" means an on-premise beer retailer who is:

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

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

~~(((136)))~~ (138) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~(((137)))~~ (139) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~(((138)))~~ (140) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~(((139)))~~ (141) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

- (i) unlabeled;
- (ii) leaky;
- (iii) damaged;
- (iv) difficult to open; or
- (v) partly filled;

(b)

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

(ii) has contents that are:

- (A) cloudy;
- (B) spoiled; or
- (C) chemically determined to be impure; or

(iii) contains:

- (A) sediment; or
- (B) a foreign substance; or

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

~~(((140)))~~ (142)

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

(b) "Wine" includes:

- (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and
- (ii) hard cider.

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

~~((141)))~~ (143) “Winery manufacturing license” means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

## **SECTION 2. SECTION 32B-1-103 IS AMENDED TO READ**

### **32B-1-103 Policy.**

The policies of the state are as follows:

- (1) This title shall be administered in a manner that is nonpartisan and free of partisan political influence.
- (2) Alcoholic product control shall be operated as a public business using sound management principles and practices. This public business shall:
  - (a) be governed by a commission;
  - (b) be operated by a department; and
  - (c) function with the intent of servicing the public demand for alcoholic products.
- (3) The commission and department may not promote or encourage the sale or consumption of alcoholic products.
- (4) The commission shall conduct, license, and regulate the wholesale and sale of alcoholic products in a manner and at prices that:
  - (a) reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products; and
  - (b) will promote the reduction of the harmful effects of:
    - (i) overconsumption of alcoholic products by adults; and
    - (ii) consumption of alcoholic products by minors.

## **SECTION 3. SECTION 32B-1-104 IS AMENDED TO READ**

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

- (1)
  - (a) This title is an exercise of the police powers of the state for the protection of the public health, peace, safety, welfare, and morals, and regulates the storage, wholesale, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product.
  - (b) This title governs alcoholic product control unless otherwise provided in this title.
- (2)
  - (a) A licensee or permittee has the rights and privileges described in this title that are applicable to the licensee’s or permittee’s license or permit.
  - (b) A licensee or permittee may engage in an activity related to the storage, wholesale, sale, offer for sale, furnishing, consumption, manufacture, or distribution of an alcoholic product only if the activity is expressly permitted under this title or a rule authorized under this title and made by the commission.
- (3) The department and the commission:
  - (a) shall implement and enforce the provisions of this title in accordance with the express language of the provisions of this title and in a manner consistent with the policy described in Section 32B-1-103; and
  - (b) may not waive any provision of this title.
- (4) If a provision of this title or the application of a provision to a person or circumstance is held invalid, the remainder of this title shall be given effect without the invalid provision or application. The provisions of this title are severable.

## **SECTION 4. SECTION 32B-1-201 IS AMENDED TO READ**



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

(1) As used in this section:

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

- (i) the enforcement of this title; or
- (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

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

- (i) determine the quotient equal to the sum of the total number of quota on-premise retail licenses available and the total number of licensed premises operating under a master full-service restaurant license or under a master limited-service restaurant license divided by the total number of alcohol-related law enforcement officers; and
- (ii) round the number determined in accordance with Subsection (1)(b)(i) up to the nearest whole number.

(c) "Quota on-premise retail license" means:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a bar establishment license;
- (iv) an on-premise banquet license;
- (v) an on-premise beer retailer operating as a tavern; and
- (vi) a reception center license.

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

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

- (i) determining as of a specified date for each quota on-premise retail license the number of licenses that the commission may not exceed calculated by dividing the population of the state by the number specified in the relevant provision for the quota on-premise retail license; and
- (ii) adding together the numbers determined under Subsection (1)(e)(i).

(2)

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

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

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

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

(3) For purposes of determining the number of state warehouses ~~((stores))~~ that the commission may establish or the number of off-premise retail licenses ~~((package agencies))~~ or on-premise retail licenses that the commission may issue, the commission shall determine population by:

- (a) the most recent United States decennial or special census; or
- (b) another population determination made by the United States or state governments.

(4) The commission may not consider ~~((a))~~ an on-premise retail license that meets the following conditions in determining the total number of licenses available for that type of on-premise retail license that the commission may issue at any time:

- (a) the on-premise retail license was issued to a club licensee designated as a dining club as of July 1, 2011; and
- (b) the dining club license is converted to another type of on-premise retail license in accordance with Section 32B-6-409.

## **SECTION 5. SECTION 32B-1-202 IS AMENDED TO READ**

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

(1) As used in this section:

- (a)
  - (i) "Outlet" means:
    - (A) a state ~~((store))~~ warehouse; or
    - ~~((B))~~ ~~((a package agency; or))~~
    - ~~((C))~~ (B) a retail licensee.
  - (ii) "Outlet" does not include:
    - (A) an airport lounge licensee; or
    - (B) a restaurant.
- (b) "Restaurant" means:
  - (i) a full-service restaurant licensee;
  - (ii) a limited-service restaurant licensee;
  - (iii) a beer-only restaurant licensee; or
  - (iv) a restaurant venue on-premise banquet licensee.

(2)

(a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

- (i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
- (ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

- (i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
- (ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3)

(a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

- (i) the outlet or restaurant changes ownership;

- (ii) the property on which the outlet or restaurant is located changes ownership; or
- (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.
- (b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.
- (4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:
  - (a) the outlet or restaurant changes ownership;
  - (b) the property on which the outlet or restaurant is located changes ownership; or
  - (c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
- (5)
  - (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:
    - (i) the outlet or restaurant changes ownership;
    - (ii) the property on which the outlet or restaurant is located changes ownership; or
    - (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
  - (b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.
- (6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

## **SECTION 6. SECTION 32B-1-202.1 IS AMENDED TO READ**

### **32B-1-202.1 Proximity for certain hotel and arena licensees.**

- (1) As used in this section, "hotel" means the same as that term is defined in Section 32B-8b-102.
- (2) The commission may issue a hotel license for a proposed location that does not meet the proximity requirements under Section 32B-1-202, if:
  - (a) the proposed hotel is:
    - (i) located in a city classified as a city of the first class under Section 10-2-301;
    - (ii) within 650 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;
    - (iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and
    - (iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;
  - (b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:
    - (i) is on the second or higher floor of a hotel;
    - (ii) is not accessible at street level; and

- (iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and
- (c) the applicant meets all other criteria under this title for the hotel license.
- (3) The commission may issue authority to operate as a package agency license to a hotel licensee who meets the requirements described in Subsection (2).
- (4)
  - (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which the commission issues the license, each proposed sublicense of the arena license:
    - (i) operates as an outlet or restaurant; and
    - (ii)
      - (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or
      - (B) has been in operation on the proposed sublicense premises for at least 10 years.
  - (b) After the commission issues an arena license in accordance with Subsection (4)(a), the commission may not issue the arena licensee an additional sublicense.

## **SECTION 7. SECTION 32B-1-204 IS AMENDED TO READ**

### **32B-1-204 Powers of local authority.**

- (1) If this title expressly addresses an issue related to alcoholic product control in this state, a local authority may not regulate in relation to that issue except when a local authority is expressly granted regulatory authority to regulate the issue by this title.
- (2) If this title does not expressly address an issue related to alcoholic product control, a local authority may regulate that issue if the regulation:
  - (a) is of the wholesale, sale, offer for sale, furnishing, or consumption of an alcoholic product; and
  - (b) does not conflict with this title.

## **SECTION 8. SECTION 32B-1-206 IS AMENDED TO READ**

### **32B-1-206 Advertising prohibited -- Exceptions.**

- (1)
  - (a) The department may not advertise liquor, except:
    - (i) the department may provide for an appropriate sign in the window or on the front of a state ~~((store or package agency))~~ warehouse denoting that it is a state authorized liquor ~~((retail))~~ wholesale facility;
    - (ii) the department ~~((or a package agency))~~ may provide a printed price list to ~~((the public))~~ licensees;
    - (iii) the department may authorize the use of price posting and floor stacking of liquor on the premises of an off-premise retail licensee; ((within a state store;)).
    - (iv) subject to Subsection (1)(b), the department may provide a listing of the address and telephone number of a state ~~((store))~~ warehouse in one or more printed or electronic directories available to the general public and licensees; and
    - (v) subject to Subsection (1)(b), a package agency licensee or liquor store licensee may provide a listing of its address and telephone number in one or more printed or electronic directories available to the general public.
  - (b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a telephone directory may ~~((not))~~ be displayed in an advertisement or other promotional format.
- (2)
  - (a) The department may not advertise an alcoholic product on a billboard.
  - (b) A package agency licensee or liquor store licensee may not advertise an alcoholic product on a billboard,

except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3)

(a) The department may not display liquor or a price list in a window or showcase visible to passersby.

(b) A package agency licensee or liquor store licensee may not display liquor or a price list in a window or showcase visible to passersby, except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Advertising of an alcoholic product may not:

(a) promote the intoxicating effects of alcohol; or

(b) emphasize the high alcohol content of the alcoholic product.

(5) Except to the extent prohibited by this title, the advertising of an alcoholic product is allowed under guidelines established by the commission by rule.

(6) The advertising or use of any means or media to offer an alcoholic product to the general public without charge is prohibited.

## **SECTION 9. SECTION 32B-1-207 IS AMENDED TO READ**

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

In calculating the annual gross receipts of ~~((a)) an on-premise~~ retail license or sublicense for purposes of determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food or an alcoholic product, ~~((a)) an on-premise~~ retail licensee may not include in the calculation the money from the sale of:

(1) a bottle of wine by the on-premise retail licensee or under a sublicense that is in excess of \$175;

(2) an individual portion of wine, as described in Subsection 32B-5-304(2)(a), by the on-premise retail licensee or under a sublicense that is in excess of \$30; or

(3) an individual portion of spirituous liquor, as described in Subsection 32B-5-304(1), by the on-premise retail licensee or under a sublicense that is in excess of \$30.

## **SECTION 10. SECTION 32B-1-304 IS AMENDED TO READ**

### **32B-1-304 Qualifications for a ~~((package agency,))~~ license ~~((,))~~ or permit -- Minors.**

(1)

(a) Except as provided in Subsection (7), the commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the ~~((package agency,))~~ license ~~((,))~~ or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the ~~((package agency,))~~ license ~~((,))~~ or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the ~~((package agency,))~~ license ~~((,))~~ or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection

(1)(a):

(i) a partner;

(ii) a managing agent;

- (iii) a manager;
  - (iv) an officer;
  - (v) a director;
  - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or
  - (vii) a member who owns at least 20% of the limited liability company.
- (c) Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a ~~((package agency,))~~ license ~~((,))~~ or permittee has been convicted of an offense described in Subsection (1)(a).
- (2) Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a ~~((package agency,))~~ license ~~((,))~~ or permit ~~((, and terminate a package agency agreement,))~~ if a person described in Subsection (1):
- (a) after the day on which the ~~((package agency,))~~ license ~~((,))~~ or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the ~~((package agency,))~~ license ~~((,))~~ or permit is issued; or
  - (b) on or after the day on which the ~~((package agency,))~~ license ~~((,))~~ or permit is issued:
    - (i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or
    - (ii)
      - (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
      - (B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).
- (3) Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the ~~((package agency,))~~ license ~~((,))~~ or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):
- (a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or
  - (b)
    - (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
    - (ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).
- (4)
- (a)
    - (i) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a person who has had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years.
    - (ii) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:
      - (A) a partner or managing agent of a partnership that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years;
      - (B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years; or
      - (C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years.
  - (b) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a partnership, corporation, or limited liability company if any of the following had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued

under this title revoked while acting in that person's individual capacity within the last three years:

- (i) a partner or managing agent of a partnership;
- (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or
- (iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a person acting in an individual capacity if that person was:

- (i) a partner or managing agent of a partnership that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years;
- (ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years; or
- (iii) a manager or member who owned at least 20% of the limited liability company that had any type of ~~((agency,))~~ license ~~((,))~~ or permit issued under this title revoked within the last three years.

(5)

(a) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a minor.

(b) The commission may not issue a ~~((package agency,))~~ license ~~((,))~~ or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

- (i) a partner or managing agent of the partnership;
- (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or
- (iii) a manager or member who owns at least 20% of the limited liability company.

(c) For purposes of Subsection (5)(b), the commission may not consider a minor's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for ~~((package agency,))~~ license ~~((,))~~ or permit unless the minor would exercise direct decision-making control over the ~~((package agency,))~~ license ~~((,))~~ or permit.

(6) Except as described in Section 32B-8-501, if a ~~((package agent,))~~ licensee ~~((,))~~ or permittee no longer possesses the qualifications required by this title for obtaining a ~~((package agency,))~~ license ~~((,))~~ or permit, the commission may terminate ~~((the package agency agreement,))~~ or revoke the license or permit.

(7)

(a) If the licensee is a resort licensee:

- (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and
- (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

(b) If the permittee is a public service permittee under Chapter 10, Special Use Permit Act:

- (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the airline, railroad, or other public conveyance, as the commission defines in rule; and
- (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the public service permittee.

## **SECTION 11. SECTION 32B-1-305 IS AMENDED TO READ**

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

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

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

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and

- (iii) how the information will be used;
- (b) submit to a background check in a form acceptable to the department; and
- (c) consent to a background check by:
  - (i) the Utah Bureau of Criminal Identification; and
  - (ii) the Federal Bureau of Investigation.
- (2) The following shall comply with Subsection (1):
  - (a) an individual applying for employment with the department if:
    - (i) the department makes the decision to offer the individual employment with the department; and
    - (ii) once employed, the individual will receive benefits;
  - ~~(((b) an individual applying to the commission to operate a package agency;))~~
  - ~~(((c)))~~ (b) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;
  - ~~(((d)))~~ (c) an individual who with regard to an entity that is applying to the commission to operate a ~~((package agency or for a))~~ license is:
    - (i) a partner;
    - (ii) a managing agent;
    - (iii) a manager;
    - (iv) an officer;
    - (v) a director;
    - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;
    - (vii) a member who owns at least 20% of a limited liability company; or
    - (viii) an individual employed to act in a supervisory or managerial capacity; or
  - ~~(((e)))~~ (d) an individual who becomes involved with an entity that operates ~~((a package agency))~~ or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:
    - ~~(((i) is approved to operate a package agency; or))~~
    - ~~(((ii)))~~ (i) is licensed by the commission.
- (3)
  - (a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the ~~((package agency or))~~ license.
  - (b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the ~~((package agency or))~~ licensee.
- (4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:
  - ~~(((a) continued operation of a package agency; or))~~
  - ~~(((b)))~~ (a) renewal of a license.
- (5) The department may require as a condition of continued employment that a department employee:
  - (a) submit to a background check in a form acceptable to the department; and
  - (b) consent to a fingerprint criminal background check by:
    - (i) the Utah Bureau of Criminal Identification; and
    - (ii) the Federal Bureau of Investigation.

## SECTION 12. SECTION 32B-1-306 IS AMENDED TO READ

### 32B-1-306 Use of information from a criminal background check.

The commission or department may use information obtained pursuant to Section 32B-1-305 only for one or more of the following purposes:

- (1) enforcing this title;
- (2) determining whether an individual is convicted of any of the following offenses that disqualify the



individual under this title from acting in a capacity described in Subsection 32B-1-305(2):

- (a) within the previous seven years, a felony under federal law or state law;
- (b) within the previous four years:
  - (i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or
  - (ii) a crime involving moral turpitude; or
- (c) on two or more occasions within the previous five years, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs;
- (3) determining whether an individual fails to accurately disclose the individual's criminal history on an application or document filed with the department or commission;
- (4) approving or denying an application for employment with the department;
- (5) taking disciplinary action against a department employee, including possible termination of employment;
- ~~(((6) issuing or denying an application to operate a package agency;))~~
- ~~(((7)))~~ (6) issuing or denying an application for a license;
- ~~(((8) issuing or denying the renewal of a package agency agreement;))~~
- ~~(((9)))~~ (7) issuing or denying the renewal of a license;
- ~~(((10) suspending the operation of a package agency;))~~
- ~~(((11) terminating a package agency ((contract; or))~~
- ~~(((12)))~~ (8) suspending or revoking a license.

#### **SECTION 13. SECTION 32B-1-407 IS AMENDED TO READ**

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

- (1) As used in this section, "applicable licensee" means:
  - (a) a dining club;
  - (b) a bar;
  - (c) a tavern;
  - (d) a full-service restaurant;
  - (e) a limited-service restaurant; ~~((or))~~
  - (f) a beer-only restaurant~~((--))~~;
  - (g) a package agency license; or
  - (h) a liquor store license.
- (2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.
- (3) An authorized person is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:
  - (a) gains admittance to the premises of a bar licensee or tavern;
  - (b) procures an alcoholic product on the premises of a dining club licensee;
  - (c) procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee; ~~((or))~~
  - (d) on or after July 1, 2018, procures an alcoholic product within 10 feet of a grandfathered bar structure; or
  - (e) procures an alcoholic product for off-premise consumption from an off-premise retail licensee.
- (4) To comply with Subsection (3), an authorized person shall:
  - (a) request the individual present proof of age; and
  - (b)
    - (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

- (ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.
- (5) The commission shall establish by rule an electronic verification program that includes the following:
  - (a) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:
    - (i) the name;
    - (ii) the age;
    - (iii) the number assigned to the individual's proof of age by the issuing authority;
    - (iv) the birth date;
    - (v) the gender; and
    - (vi) the status and expiration date of the individual's proof of age; and
  - (b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:
    - (i) used by the applicable licensee only for purposes of verifying proof of age in accordance with this section; and
    - (ii) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.
- (6)
  - (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.
  - (b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements, Chapter 2, Part 6, Package Agency License and Chapter 19, Liquor Store License Act.

#### **SECTION 14. SECTION 32B-1-701 IS AMENDED TO READ**

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

As used in this part:

- (1) "Off-premise retail manager" means an individual who manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act, Chapter 2, Part 6, Package Agency License, or Chapter 19, Liquor Store License Act.
- (2)
  - (a) "Off-premise retail staff" means an individual who sells beer or liquor at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act, Chapter 2, Part 6, Package Agency License, or Chapter 19, Liquor Store License Act.
  - (b) "Off-premise retail staff" does not include an off-premise retail manager.
- (3) "On-premise retail manager" means an individual who:
  - (a) manages operations at a premises that is licensed under Chapter 5, Retail License Act; or
  - (b) supervises the furnishing of an alcoholic product at a premises that is licensed under Chapter 5, Retail License Act.
- (4)
  - (a) "On-premise retail staff" means an individual who serves an alcoholic product at a premises licensed under Chapter 5, Retail License Act.
  - (b) "On-premise retail staff" does not include ~~((a))~~ an on-premise retail manager.

#### **SECTION 15. SECTION 32B-1-703 IS AMENDED TO READ**

### **32B-1-703 Alcohol training and education for off-premise consumption.**

(1)

(a) A local authority that issues an off-premise beer retailer license, package agency license, or liquor store license to a business to sell beer or liquor at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

- (i) an off-premise retail manager; or
- (ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer, package agency licensee, or liquor store licensee does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar in accordance with Section 26B-5-205 before the day on which the individual begins work as staff of an off-premise beer retailer, package agency licensee, or liquor store licensee.

(c) An off-premise beer retailer, package agency licensee, or liquor store licensee may not permit an individual who is not in compliance with Subsection (1)(b) to:

- (i) directly supervise the sale of beer or liquor to a customer for consumption off the premises of the off-premise beer retailer, package agency license, or liquor store license; or
- (ii) sell beer or liquor to a customer for consumption off the premises of the off-premise beer retailer, package agency license, or liquor store license.

(2) A licensee that violates this section is subject to Section 32B-1-702.

### **SECTION 16. SECTION 32B-1-704 IS AMENDED TO READ**

#### **32B-1-704 Department training programs.**

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

(a) a training program for on-premise retail managers that addresses:

- (i) the statutes and rules that govern alcohol sales and consumption in the state;
- (ii) the requirements for operating as ~~((a))~~ an on-premise retail licensee;
- (iii) using compliance assistance from the department; and
- (iv) any other topic the department determines beneficial to ~~((a))~~ an on-premise retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

- (i) the statutes and rules that govern the most common types of violations under this title;
- (ii) how to avoid common violations; and
- (iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

- (a) the statutes and rules that govern sales at an off-premise beer retailer, package agency license, or liquor store license;
- (b) the requirements for operating an off-premise beer retailer, package agency license, or liquor store license;
- (c) using compliance assistance from the department; and
- (d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

- (a) the requirements for each training program described in this section;

- (b) measures that accurately identify each individual who takes and completes a training program;
- (c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;
- (d) a record that certifies that an individual has completed a training program; and
- (e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4)

- (a) Each on-premise retail manager shall complete the training described in Subsection (1)(a) no later than the later of:
    - (i) 30 days after the day on which the on-premise retail manager is hired; or
    - (ii) the day on which the on-premise retail licensee obtains ~~((a))~~ an on-premise retail license.
  - (b) Each off-premise retail manager shall complete the training described in Subsection (2) no later than the later of:
    - (i) 30 days after the day on which the off-premise retail manager is hired; or
    - (ii) 30 days after the day on which the package agency license, liquor store license, or off-premise beer retailer obtains ~~((an))~~ a package agency license, liquor store license, or off-premise beer retailer state license.
  - (c)
    - (i) If the commission finds that ~~((a))~~ an on-premise retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all on-premise retail staff, and each on-premise retail manager shall complete the training program described in Subsection (1)(b).
    - (ii) If the commission finds that an off-premise beer retailer, package agency licensee, or liquor store licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).
- (5) If an individual fails to complete a required training program under this section:
- (a) the commission may suspend, revoke, or not renew the on-premise retail license, package agency license, liquor store license, or off-premise beer retailer state license;
  - (b) a city, town, metro township, or county in which the on-premise retail licensee, package agency license, liquor store license, or off-premise beer retailer is located may suspend, revoke, or not renew the on-premise retail licensee's, package agency licensee's, liquor store licensee's, or off-premise beer retailer's business license; or
  - (c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

## SECTION 17. SECTION 32B-2-202 IS AMENDED TO READ

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

- (1) The commission shall:
  - (a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;
  - (b) adopt and issue policies, rules, and procedures;
  - (c) set policy by written rules that establish criteria and procedures for:
    - (i) issuing, denying, not renewing, suspending, or revoking a ~~((package agency,))~~ license, permit, or certificate of approval; and
    - (ii) determining the location of a state ~~((store, package agency,))~~ warehouse or ~~((retail))~~ licensee;

- (d) decide within the limits, and under the conditions imposed by this title, the number and location of state warehouses ~~((stores, package agencies,))~~ and ~~((retail))~~ licensees in the state;
- (e) issue, deny, suspend, revoke, or not renew the following ~~((package agencies,))~~ licenses, sublicenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:
- (i) a package agency license;
  - (ii) a full-service restaurant license;
  - (iii) a master full-service restaurant license;
  - (iv) a limited-service restaurant license;
  - (v) a master limited-service restaurant license;
  - (vi) a bar establishment license;
  - (vii) an airport lounge license;
  - (viii) an on-premise banquet license;
  - (ix) a resort license, which includes four or more sublicenses;
  - (x) an on-premise beer retailer license;
  - (xi) a reception center license;
  - (xii) a beer-only restaurant license;
  - (xiii) a hotel license, which includes three or more sublicenses;
  - (xiv) an arena license, which includes three or more sublicenses;
  - (xv) a hospitality amenity license;
  - (xvi) subject to Subsection (5), a single event permit;
  - (xvii) subject to Subsection (5), a temporary beer event permit;
  - (xviii) a special use permit;
  - (xix) a manufacturing license;
  - (xx) a liquor warehousing license;
  - (xxi) a beer wholesaling license;
  - (xxii) a liquor transport license;
  - (xxiii) an off-premise beer retailer state license;
  - (xxiv) a master off-premise beer retailer state license;
  - (xxv) one of the following that holds a certificate of approval:
    - (A) an out-of-state brewer;
    - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
    - (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; and
  - (xxvi) a spa sublicense;
  - (xxvii) a liquor store license;
  - (xxviii) a direct shipping wholesaler license; or
  - (xxix) a wine club direct license.
- (f) issue, deny, suspend, or revoke the following conditional licenses:
- (i) a conditional retail license as defined in Section 32B-5-205; ~~((and))~~
  - (ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406; and
  - (iii) a conditional liquor store license as defined in Section 32B-19-410.
- (g) prescribe the duties of the department in assisting the commission in issuing a ~~((package agency,))~~ license, permit, or certificate of approval under this title;
- (h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;
- (i) fix wholesale prices at which liquor is sold that are the same at all state warehouses; ~~((stores, package agencies, and retail licensees;))~~
- (j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

- (k)
    - (i) require the director to follow sound management principles; and
    - (ii) require periodic reporting from the director to ensure that:
      - (A) sound management principles are being followed; and
      - (B) policies established by the commission are being observed;
  - (l)
    - (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and
    - (ii) do the things necessary to support the department in properly performing the department's duties;
  - (m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:
    - (i) considered expedient; and
    - (ii) approved by the governor;
  - (n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
  - (o) make rules governing the credit terms of beer sales within the state to retail licensees; and
  - (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.
- (2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:
- (a) establish a state warehouse; ~~((store;))~~
  - ~~(((b) issue authority to act as a package agent or operate a package agency; and))~~
  - ~~(((c)))~~ (b) issue, deny, or deem forfeit a license, permit, or certificate of approval.
- (3)
- (a) Subject to Subsections (3)(b) and (c), the commission may make rules permitting and establishing the parameters of a late license renewal.
  - (b) The commission may not allow for the late renewal of a license after the later of:
    - (i) the tenth day of the month after the month in which the license type is required to be renewed; or
    - (ii) if the tenth day of the month after the month in which the license type is required to be renewed falls on a Saturday, Sunday, or state or federal holiday, the first business day after the Saturday, Sunday, or holiday.
  - (c) The fee for a late license renewal is \$300.
- (4) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) Notwithstanding Subsections (1)(e)(xvi) and (xvii), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

## **SECTION 18. SECTION 32B-2-206 IS AMENDED TO READ**

### **32B-2-206 Powers and duties of the director.**

Subject to the powers and responsibilities of the commission under this title, the director:

- (1)
  - (a) shall prepare and propose to the commission general policies, rules, and procedures governing the administrative activities of the department; and
  - (b) may submit other recommendations to the commission as the director considers in the interest of the commission's or the department's business;
- (2) within the general policies, rules, and procedures of the commission, shall:
  - (a) provide day-to-day direction, coordination, and delegation of responsibilities in the administrative activities of the department's business; and

- (b) make internal department policies and procedures relating to:
  - (i) department personnel matters; and
  - (ii) the day-to-day operation of the department;
- (3) subject to Section 32B-2-207, shall appoint or employ personnel as considered necessary in the administration of this title, and with regard to the personnel shall:
  - (a) prescribe the conditions of employment;
  - (b) define the respective duties and powers; and
  - (c) fix the remuneration in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act;
- (4) shall establish and secure adherence to a system of reports, controls, and performance in matters relating to personnel, security, department property management, and operation of:
  - (a) a department office;
  - (b) a state warehouse~~((;))~~.
  - ~~(((c) a state store; and))~~
  - ~~(((d) a package agency))~~
- (5) within the policies, rules, and procedures approved by the commission and provisions of law, shall purchase, store, keep for sale, wholesale, sell, import, and control the storage, sale, wholesale, furnishing, transportation, or delivery of an alcoholic product;
- (6) shall prepare for commission approval:
  - (a) recommendations regarding the location, establishment, relocation, and closure of a state ~~((store))~~ warehouse; ((or package agency))
  - (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or revocation of a license, permit, or certificate of approval;
  - (c) an annual budget, proposed legislation, and reports as required by law and sound business principles;
  - (d) plans for reorganizing divisions of the department and the functions of the divisions;
  - (e) manuals containing commission and department policies, rules, and procedures;
  - (f) an inventory control system;
  - (g) any other report or recommendation requested by the commission;
  - (h) rules described in Subsection 32B-2-202(1)(o) governing the credit terms of the sale of beer;
  - (i) rules governing the calibration, maintenance, and regulation of a calibrated metered dispensing system;
  - (j) rules governing the display of a list of types and brand names of liquor furnished through a calibrated metered dispensing system;
  - (k) price lists issued and distributed showing the price to be paid for each class, variety, or brand of liquor kept for ~~((sale))~~ wholesale at a state ~~((store))~~ warehouse; ((package agency, or retail licensee;))
  - (l) policies or rules prescribing the books of account maintained by the department and by a state ~~((store))~~ warehouse ((package agency;)) or ((retail)) licensee; and
  - (m) a policy prescribing the manner of giving and serving a notice required by this title or rules made under this title;
- (7) shall make available through the department to any person, upon request, a copy of a policy made by the director;
- (8) shall make and maintain a current copy of a manual that contains the rules and policies of the commission and department available for public inspection;
- (9)
  - (a) after consultation with the governor, shall determine whether an alcoholic product should not be sold, offered for sale, or otherwise furnished in an area of the state during a period of emergency that is proclaimed by the governor to exist in that area; and
  - (b) shall issue a necessary public announcement or policy with respect to the determination described in Subsection (9)(a);
- (10) issue event permits in accordance with Chapter 9, Event Permit Act; and

(11) shall perform any other duty required by the commission or by law.

## **SECTION 19. SECTION 32B-2-207 IS AMENDED TO READ**

### **32B-2-207 Department employees -- Requirements.**

(1) "Upper management" means the director, a deputy director, or other Schedule AD, AR, or AS employee of the department, as defined in Section 63A-17-301, except for the director of internal audits and auditors hired by the director of internal audits under Section 32B-2-302.5.

(2)

(a) Subject to this title, including the requirements of Chapter 1, Part 3, Qualifications and Background, the director may prescribe the qualifications of a department employee.

(b) The director may hire an employee who is upper management only with the approval of four commissioners voting in an open meeting.

(c) Except as provided in Section 32B-1-303, the executive director may dismiss an employee who is upper management after consultation with the chair of the commission.

(3)

(a) A person who seeks employment with the department shall file with the department an application under oath or affirmation in a form prescribed by the commission.

(b) Upon receiving an application, the department shall determine whether the individual is:

(i) of good moral character; and

(ii) qualified for the position sought.

(c) The department shall select an individual for employment or advancement with the department in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act.

(4) The following are not considered a department employee:

~~(((a) a package agent;))~~

~~(((b)))~~ (a) a licensee; or

~~(((c) a staff member of a package agent; or))~~

~~(((d)))~~ (b) staff of a licensee.

(5) The department may not employ a minor to:

(a) work in:

~~(((i) a state store; or))~~

~~(((ii)))~~ (i) a department warehouse; or

(b) engage in an activity involving the handling of an alcoholic product.

(6) The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

## **SECTION 20. SECTION 32B-2-209 IS AMENDED TO READ**

### **32B-2-209 Prohibited interests, relationships, and actions.**

(1) As used in this section:

(a) "Applicable department employee" means a department employee who is:

(i) designated as a deputy or assistant director;

(ii) a chief administrative officer of a division within the department;

(iii) a department compliance officer; or

(iv) an employee directly performing purchasing, licensing, or compliance functions of the department.



(b) "Immediate family" means an individual's:

- (i) spouse; or
- (ii) child who is younger than 18 years of age.

(c) "Permit" does not include:

- (i) an industrial or manufacturing use permit;
- (ii) a scientific or educational use permit; or
- (iii) a religious wine use permit.

(2) In addition to being subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, an individual who is a commissioner, the director, or an applicable department employee may not:

(a) have a pecuniary interest, whether as the holder of stock or other securities other than a mutual fund, in a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title;

(b) otherwise have a conflict of interest with a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title;

(c) have an office, position, or relationship, or be engaged in a business or avocation that interferes or is incompatible with the effective and objective fulfillment of the duties of office or employment;

(d) have a direct business relationship with a person subject to administrative action under this title;

(e) accept a gift, gratuity, emolument, or employment from:

(i) a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title; or

(ii) an officer, agent, or employee of a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title, except that a commissioner, the director, or an applicable department employee may accept a gift from an officer, agent, or employee if the gift is equal to or less than \$50; or

(f) solicit, suggest, request, or recommend, directly or indirectly, the appointment of any person to any office or employment with a person who applies for or holds a ~~((package agency,))~~ license, or permit under this title.

(3) An immediate family member of a commissioner, the director, or an applicable department employee may not:

(a) have a pecuniary interest, whether as the holder of stock or other securities other than a mutual fund, in a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title;

(b) otherwise have a conflict of interest with a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title;

(c) have an office, position, or relationship, or be engaged in a business or avocation that interferes or is incompatible with the effective and objective fulfillment of the duties of office or employment of the commissioner, director, or applicable department employee for whom the person is immediate family;

(d) accept a gift, gratuity, emolument, or employment from:

(i) a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title; or

(ii) an officer, agent, or employee of a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title, except that an immediate family member may accept a gift from an officer, agent, or employee if the gift is equal to or less than \$50; or

(e) solicit, suggest, request, or recommend, directly or indirectly, the appointment of any person to any office or employment with a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title.

(4) An officer, agent, attorney, or employee of a person who applies for or holds a ~~((package agency,))~~ license ~~((,))~~ or permit under this title may not directly or indirectly solicit, request, or recommend to the governor, any state senator, the commission, or the department the appointment of any person:

(a) as a commissioner;

(b) as director of the department; or

(c) to a department staff position.

(5)

(a) A commissioner shall disclose during a meeting of the commission a potential violation of this section,

including the existence and nature of a professional, financial, business, or personal interest with a person who holds, or an applicant for, a ~~((package agency,))~~ license ~~((,))~~ or permit issued under this title that may result in a violation of this section.

(b) After a commissioner makes a disclosure under Subsection (5)(a):

(i) the commission may, by motion, determine whether there is a potential violation of this section;

(ii) if the commission determines that there is a potential violation of this section:

(A) the commission shall notify the governor; and

(B) the commissioner may not vote on any matter that would result in the potential violation of this section; and

(iii) if the commission determines that there is not a potential violation of this section, a commissioner may elect whether to vote on the issue that gives rise to the disclosure under Subsection (5)(a).

(c) The commission shall record any declaration of a potential violation of this section in the minutes of the meeting.

## **SECTION 21. SECTION 32B-2-212 IS AMENDED TO READ**

### **32B-2-212 Division of Consumer Purchasing.**

There is created with the department the Division of Consumer Purchasing to establish and administer:

(1) the wine subscription program described in ~~((Part 7, Wine Subscription Program))~~ Chapter 21, Wine Club Direct License Act; and

(2) the consumer purchasing system described in Part ~~((8))~~ 7, Consumer Purchasing System.

## **SECTION 22. SECTION 32B-2-301 IS AMENDED TO READ**

### **32B-2-301 State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.**

(1) As used in this section, "base budget" means the same as that term is defined in legislative rule.

(2) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(3)

(a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in Sections 32B-2-304, 32B-2-305, and 32B-2-306, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(4)

(a) Notwithstanding Subsection (3)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the

General Fund may be used.

(5) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(a) credit card related fees paid by the department;

~~(((b) package agency compensation;))~~

~~(((c)))~~ (b) the department's costs of shipping and warehousing alcoholic products; and

~~(((d)))~~ (c) the amount needed, as the Department of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state ~~((store))~~ warehouse manager or equivalent;

(ii) state ~~((store))~~ warehouse assistant manager or equivalent;

(iii) full-time ~~((sales clerk))~~ worker at a state ~~((store))~~ warehouse or equivalent;

(iv) part-time ~~((sales clerk))~~ worker at a state ~~((store))~~ warehouse or equivalent;

~~(((v) department warehouse manager or equivalent;))~~

~~(((vi) department warehouse assistant manager or equivalent;))~~

~~(((vii) full-time department warehouse worker or equivalent; and))~~

~~(((viii) part-time department warehouse worker or equivalent.))~~

(6)

(a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the ~~((sale))~~ wholesale of liquor since the preceding transfer of money under this Subsection (6).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

(7)

(a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

(8) Before the Division of Finance makes the transfer described in Subsection (6), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

## **SECTION 23. SECTION 32B-2-302 IS AMENDED TO READ**

### **32B-2-302 Exempt from Division of Finance -- Application of procurement -- External audits.**

(1)

(a) The laws that govern the Division of Finance are not applicable to the department in the purchase, wholesale and sale of an alcoholic product.

(b) The department is exempt from Title 63G, Chapter 6a, Utah Procurement Code, for the purchase of an alcoholic product. The department is subject to Title 63G, Chapter 6a, Utah Procurement Code, for any purchase other than for an alcoholic product.

(2) The state auditor shall:

- (a) annually perform a financial audit of the department's accounts; and
  - (b) determine the scope and focus of the financial audit in an open meeting of the commission before the audit commences.
- (3) Every two years, beginning for fiscal year 2013-14, the state auditor shall conduct an audit of the department's:
- (a) management operations, best practices, and efficiency; and
  - (b) ethics and statutory compliance.
- (4) In addition to complying with Subsections (2) and (3), the state auditor may engage in an activity related to the department or commission allowed under Utah Constitution, Article VII, Section 15 or Title 67, Chapter 3, Auditor.
- (5) The state auditor shall forward an audit report issued under Subsection (2) or (3) to the following by no later than 30 days after the day on which the audit report is made:
- (a) the governor;
  - (b) the Legislative Management Committee;
  - (c) the director; and
  - (d) the legislative auditor general.

## SECTION 24. SECTION 32B-2-304 IS AMENDED TO READ

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

- (1) For purposes of this section:
- (a)
    - (i) "Landed case cost" means:
      - (A) the cost of the product; and
      - (B) inbound shipping costs incurred by the department.
    - (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department ~~((to a state store))~~ to another state warehouse.
  - (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.
- (2) Except as provided in Subsections (3) and (4):
- (a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than ~~((88%))~~ 30% above the landed case cost to the department to establish a wholesale price to licensees and permittees;
  - (b) wine sold by the department within the state shall be marked up in an amount not less than ~~((88%))~~ 30% above the landed case cost to the department to establish a wholesale price to licensees and permittees;
  - (c) heavy beer sold by ~~((the department))~~ a beer wholesaler within the state shall be marked up in an amount not less than ~~((66.5%))~~ 30% above the landed case cost to ~~((the department))~~ a beer wholesaler to establish a wholesale price to licensees, military installations, and permittees; and
    - (i) the 30% markup shall be remitted to the department in a timeframe and manner prescribed by the department.
  - (d) a flavored malt beverage sold by ~~((the department))~~ a beer wholesaler within the state shall be marked up in an amount not less than ~~((88%))~~ 30% above the landed case cost to ~~((the department))~~ a beer wholesaler to establish a wholesale price to licensees, military installations, and permittees; and
    - (i) the 30% markup shall be remitted to the department in a timeframe and manner prescribed by the department.
- (3)
- (a) Spirituous ~~((Liquor))~~ liquor and wine sold by the department, a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act, or a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act to a military installation in Utah shall be marked up in an amount not less

than 17% above the landed case cost to the department, a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act, or a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act; and

(i) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act, or a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act shall remit the 17% markup to the department in a timeframe and manner prescribed by the department.

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

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

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

~~((c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:))~~

~~((i))~~

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

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

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

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

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

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

~~((e) The department shall:))~~

~~((i) for purposes of Subsections (3)(b) and (c), calculate the production amount of a manufacturer:))~~

~~((A) by, if the manufacturer is part of a controlled group of manufacturers, including the combined volume totals of spirituous liquor, wine, or cider, as applicable, for all manufacturers that constitute the controlled group of manufacturers; and))~~

~~((B) without considering the manufacturer's production of any other type of alcoholic product; and))~~

~~((ii) verify that a manufacturer meets a production amount described in Subsection (3)(b) or (c) and the production amount of a small brewer pursuant to a federal or other verifiable production report.))~~

~~((f) A manufacturer seeking to obtain a reduced markup under Subsection (3)(b), (c), or (d), shall provide to the department any documentation or information the department determines necessary to determine if the manufacturer is part of a controlled group of manufacturers.))~~

~~((g) The department may, at any time, revoke a reduced markup granted to a manufacturer under Subsection (3)(b), (c), or (d), if the department determines the manufacturer no longer qualifies for the reduced markup.))~~

(4) Wine ~~((the department purchases on behalf of a subscriber))~~ sent direct-to-consumer through ((the)) a wine club subscription ((program)) established in ((Section 32B-2-702)) Chapter 21, Wine Club Direct License Act shall be marked up not less than ((88%)) 12% ((above the cost of the subscription for the interval in which the wine is purchased.)) and remitted to the department in a time and manner prescribed by the department.

(5) The department shall deposit ~~((10%)) 14.22%~~ of the total gross revenue from ~~((sales)) the wholesale~~ of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school meals program administered by the State Board of Education under Section 53E-3-510.

(6) This section does not prohibit the department from ~~((selling)) wholesaling~~ discontinued items at a discount.

(7) The established wholesale percentage mark up on spirituous liquor, wine, heavy beer, and flavored malt beverages of 30% may:

- (a) only be increased or decreased by proposal through general election;
- (b) not increase or decrease by 1% in any five-year consecutive period; and
- (c) not exceed 35% over acquisition cost until the year 2060.

**SECTION 25. SECTION 32B-2-305 IS AMENDED TO READ**

**32B-2-305 Alcoholic Beverage Control Act Enforcement Fund.**

(1) As used in this section:

- (a) "Alcohol-related law enforcement officer" means the same as that term is defined in Section 32B-1-201.
- (b) "Drug-related law enforcement officer" means a law enforcement officer employed by the Department of Public Safety who has enforcement of drug-related offenses as a primary responsibility.
- (c) "Enforcement ratio" means the same as that term is defined in Section 32B-1-201.
- (d) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.
- (e) "SBI drug-related law enforcement officer" means a law enforcement officer employed by the State Bureau of Investigation within the Department of Public Safety who has investigation of drug-related offenses as a primary responsibility.
- (f) "Social worker" means an individual licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and employed by the Department of Public Safety who has provision of caseworker services to individuals under 21 years old as a primary responsibility.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3)

(a) The fund consists of:

- (i) deposits made under Subsection (4); and
- (ii) interest earned on the fund.

(b)

- (i) The fund shall earn interest.
- (ii) Interest on the fund shall be deposited into the fund.

(4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit ~~((1.695%))~~ 2.4% of the total gross revenue from the ~~((sale))~~ the wholesale of liquor with the state treasurer to be credited to the fund to be:

- (a) used by the Department of Public Safety as provided in Subsection (5); and
- (b) reallocated to the General Fund as described in Subsection (6).

(5)

(a) The Department of Public Safety shall expend money from the fund to:

- (i) supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201; and
- (ii) maintain at least:
  - (A) 10 drug-related law enforcement officers;
  - (B) eight SBI drug-related law enforcement officers; and
  - (C) two social workers.

(b) Four of the alcohol-related law enforcement officers described in Subsection (5)(a)(i) shall have as a primary focus the enforcement of this title in relationship to restaurants.

(6) For fiscal year 2023, the Division of Finance shall deposit into the General Fund \$3 million of unspent money in the fund.

**SECTION 26. SECTION 32B-2-306 IS AMENDED TO READ**

**32B-2-306 Underage drinking prevention media and education campaign.**

(1) As used in this section:

- (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.
- (b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2)

- (a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."
- (b) The restricted account consists of:
  - (i) deposits made under Subsection (3); and
  - (ii) interest earned on the restricted account.

(3) The department shall deposit ~~((0.06%))~~ 1% of the total gross revenue from ~~((sales))~~ the wholesale of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory council shall:

- (a) provide ongoing oversight of a media and education campaign funded under this section;
- (b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;
- (c) create guidelines for how money appropriated for a media and education campaign can be used;
- (d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and
- (e) approve plans submitted by the department in accordance with Subsection (5).

(5)

(a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council.

(b) The department shall:

- (i) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;
- (ii) upon approval of the plan by the advisory council, conduct the media and education campaign in accordance with the guidelines made by the advisory council; and
- (iii) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

**SECTION 27. SECTION 32B-2-307 IS AMENDED TO READ**

**32B-2-307 State ~~((Store))~~ Warehouse Land Acquisition and Building Construction Fund.**

(1) As used in this section, "fund" means the State ~~((Store))~~ Warehouse Land Acquisition and Building Construction Fund created in this section.

(2) There is created an enterprise fund known as the State ~~((Store))~~ Warehouse Land Acquisition and Building Construction Fund.

(3) The fund is funded from the following sources:

- (a) appropriations made to the fund by the Legislature;
- (b) in accordance with Subsection (6)(a), proceeds from revenue bonds authorized by Title 63B, Bonds;

- (c) subject to Subsection (7)(b), repayments to the fund; and
  - (d) the interest described in Subsection (4).
- (4)
- (a) The fund shall earn interest.
  - (b) Interest earned on the fund shall be deposited into the fund.
- (5) Subject to Subsection (6), the department may use the money deposited into the fund:
- (a) for construction of new state ~~((stores))~~ warehouses, including to purchase or lease property; and
  - (b) for maintenance or renovation of existing state ~~((stores))~~ warehouses or facilities.
- (6)
- (a) Before the department spends or commits money from the fund, the department shall:
    - (i) present to the Infrastructure and General Government Appropriations Subcommittee a description of how the department will spend the money; and
    - (ii) if the department intends to spend or commit money from the fund for construction of a new state ~~((stores))~~ warehouse:
      - (A) receive approval from the Division of Facilities Construction and Management, created in Section 63A-5b-301; and
      - (B) receive authorization in an appropriations act.
  - (b) Following a presentation described in Subsection (6)(a)(i), the Infrastructure and General Government Appropriations Subcommittee shall recommend whether the department spend the money in accordance with the department's presentation.
- (7)
- (a) If the department uses money in the fund for a purpose described in Subsection (5), and subsequently issues a revenue bond for that purpose, the department shall repay the money with proceeds from the revenue bond.
  - (b) If the department uses money from the fund for a purpose described in Subsection (5), and subsequently uses, instead of issuing bonds, cash funding appropriated by the Legislature to fund that purpose, the department shall reimburse the fund:
    - (i) with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301, on a long-term payment schedule set by the state treasurer; and
    - (ii) before the transfer described in Subsection 32B-2-301(7).
- (8)
- (a) If the department uses money from the fund that the Legislature appropriated as a loan to be used for the purposes described in Subsection (5), the department shall repay the money with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301:
    - (i) with interest at prevailing municipal revenue bond rates for the state of Utah at the time of loan origination minus 50 basis points; and
    - (ii) on a term not to exceed 15 years.
  - (b) The department shall make each payment under Subsection (8)(a) before the transfer described in Subsection 32B-2-301(7).

## **SECTION 28. SECTION 32B-2-402 IS AMENDED TO READ**

### **32B-2-402 Definitions -- Calculations.**

- (1) As used in this part:
  - (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.
  - (b) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.



- (c) "Alcohol-related offense" means:
    - (i) a violation of:
      - (A) Section 41-6a-502; or
      - (B) an ordinance that complies with the requirements of:
        - (I) Subsection 41-6a-510(1); or
        - (II) Section 76-5-207; or
    - (ii) an offense involving the illegal:
      - (A) sale of an alcoholic product;
      - (B) consumption of an alcoholic product;
      - (C) distribution of an alcoholic product;
      - (D) transportation of an alcoholic product; or
      - (E) possession of an alcoholic product.
  - (d) "Annual conviction time period" means the time period that:
    - (i) begins on July 1 and ends on June 30; and
    - (ii) immediately precedes the fiscal year for which an appropriation under this part is made.
  - (e) "Municipality" means:
    - (i) a city;
    - (ii) a town; or
    - (iii) a metro township.
  - (f)
    - (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Integrated Healthcare within the Department of Health and Human Services.
    - (ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:
      - (A) include only evidence-based or evidence-informed programs; and
      - (B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.
- (2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:
- (a) is the number determined by the department to be so located;
  - (b) includes the aggregate number of premises of the following:
    - (i) a state ((store)) warehouse; and
    - ~~(((ii) a package agency; and))~~
    - ~~(((iii)))~~ (ii) a retail licensee; and
  - (c) for a county, consists only of the number located within an unincorporated area of the county.
- (3) The department shall determine:
- (a) a population figure according to the most current population estimate prepared by the Utah Population Committee;
  - (b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and
  - (c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.
- (4)
- (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.
  - (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

**SECTION 29. SECTION 32B-2-404 IS AMENDED TO READ**

**32B-2-404 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.**

(1)

(a) The money deposited into the account under Section 32B-2-403 shall be distributed to municipalities and counties:

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

(ii) as provided in this Subsection (1).

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

(i) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;

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

(iii) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:

(A) state ~~((store))~~ warehouse;

(B) ~~((package agencies))~~ off-premise retail licensees;

(C) retail licensees; and

(D) off-premise beer retailers; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this part on the basis of the percentage of the state population located in each county.

(c)

(i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:

(A) the municipality may not receive money under this part; and

(B) the State Tax Commission:

(I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.

(ii) If the advisory council finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory council may direct the State Tax Commission to distribute the money to the municipality.

(2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

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

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

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

(ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and

(c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(3) By not later than September 1 each year:

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

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

(4) By not later than December 1 of each year, the advisory council shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

(b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);

(c) a municipality or county that may not receive a distribution because the advisory council has suspended the payment under Subsection 32B-2-405(2)(a); and

(d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5)

(a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory council notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

(b)

(i) The advisory council shall prepare forms for use by a municipality or county in applying for a distribution under this part.

(ii) A form described in this Subsection (5) may require the submission of information the advisory council considers necessary to enable the State Tax Commission to comply with this part.

## **SECTION 30. SECTION 32B CHAPTER 2, PART 5 IS AMENDED TO READ**

### **Part 5**

### **State ~~((store))~~ Warehouse**

## **SECTION 31. SECTION 32B-2-501 IS AMENDED TO READ**

### **32B-2-501 Commission's power to establish a state ~~((store))~~ warehouse.**

(1) The commission may establish state ~~((stores))~~ warehouses in the numbers and at places, owned or leased by the department, that the commission considers proper for the ~~((sale))~~ wholesale of liquor by employees of the state, in accordance with this title and the rules made under this title.

(2) The commission may not establish a total number of state ~~((stores))~~ warehouses that at any time exceeds the number determined by dividing the population of the state by ~~((48,000))~~ 400,000.

(3) The commission may not establish a state ~~((store))~~ warehouse at premises that do not meet the proximity requirements of Section 32B-1-202.

(4) An employee of a state ~~((store))~~ warehouse is considered a department employee and shall meet the qualification requirements for employment in Sections 32B-1-303 and 32B-2-207.

(5)

(a) The commission shall ensure that signage installed or replaced at or near a state ~~((store))~~ warehouse, on

or after May 11, 2010, complies with Subsection (5)(b) if the signage is:

- (i) attached to the exterior of the premises of a state ~~((store))~~ warehouse; or
- (ii) not attached to the premises of a state ~~((store))~~ warehouse, but otherwise alerts or directs a person to the location of a state ~~((store))~~ warehouse.

(b) Signage described in Subsection (5)(a) shall contain the following words in the size of lettering required by Subsection (5)(c):

- (i) "state"; or
- (ii) "State of Utah."

(c) The text described in Subsection (5)(b) shall be in lettering that is equal to or larger than the size of any text on the same signage that refers to "liquor" or "wine."

## **SECTION 32. SECTION 32B-2-502 IS AMENDED TO READ**

### **32B-2-502 Commission and department duties before establishing a state ~~((store))~~ warehouse.**

(1)

(a) Before the commission may establish a state ~~((store))~~ warehouse, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission to assure appropriate service to the general population of the state.

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

(2) Before establishing a state ~~((store))~~ warehouse, the commission shall:

(a) determine that the local authority of the locality where the state ~~((store))~~ warehouse will be located is consulted;

(b) determine that the state ~~((store))~~ warehouse complies with the zoning ordinances of the locality where the state ~~((store))~~ warehouse will be located;

(c) consider the locality within which the proposed state ~~((store))~~ warehouse will be located including:

(i) economic factors, such as:

- (A) bid price;
- (B) lease terms;
- (C) operating costs; and
- (D) local taxes;

(ii) physical characteristics, such as:

- (A) condition of the premises;
- (B) space availability;
- (C) parking;
- (D) common areas;
- (E) conformance to building and safety codes;
- (F) delivery access; and
- (G) expandability; and

(iii) operational factors, such as:

- (A) tourist traffic;
- (B) access to the public;
- (C) demographics;
- (D) population to be served;
- (E) the nature of surrounding establishments;
- (F) proximity to and density of other state ~~((stores))~~ warehouses ~~((package agencies, and))~~ or ~~((retail))~~ licensees;
- (G) proximity to residential communities; and
- (H) proximity to educational, religious, and recreational facilities; and

(d) consider any other factor the commission considers necessary.

### SECTION 33. SECTION 32B-2-503 IS AMENDED TO READ

#### 32B-2-503 Operational requirements for a state ~~((store))~~ warehouse.

(1)

(a) A state ~~((store))~~ warehouse shall display in a prominent place in the ~~((store))~~ warehouse a sign in large letters that consists of text in the following order:

- (i) a header that reads: "WARNING";
- (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";
- (iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";
- (iv) a header that reads: "WARNING"; and
- (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(b)

(i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (1)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (1)(a) shall be in the same font size.

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

(2) A state ~~((store))~~ warehouse may not sell, offer for sale, or furnish liquor except at a wholesale price fixed by the commission.

(3) A state ~~((store))~~ warehouse may not sell, offer for sale, wholesale, or furnish liquor to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

(4)

(a) A state ~~((store))~~ warehouse employee may not:

- (i) consume an alcoholic product on the premises of a state ~~((store))~~ warehouse; or
- (ii) allow any person to consume an alcoholic product on the premises of a state ~~((store))~~ warehouse.

(b) A violation of this Subsection (4) is a class B misdemeanor.

(5)

(a) ~~((Sale))~~ The wholesaling or delivery of liquor may not be made on or from the premises of a state ~~((store))~~ warehouse, and a state ~~((store))~~ warehouse may not be kept open for the ~~((sale))~~ wholesaling of liquor:

- (i) on Sunday; or
- (ii) on a state or federal legal holiday.

(b) ~~((Sale))~~ The wholesaling or delivery of liquor may be made on or from the premises of a state ~~((store))~~ warehouse, and a state ~~((store))~~ warehouse may be open for the ~~((sale))~~ wholesaling of liquor, only on a day and during hours that the commission directs by rule or order.

(6)

(a) A minor may not be admitted into, or be on the premises of, a state ~~((store))~~ warehouse unless accompanied by a person who is:

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

(b) A state ~~((store))~~ warehouse employee that has reason to believe that a person who is on the premises of a state ~~((store))~~ warehouse is under the age of 21 and is not accompanied by a person described in Subsection (6)(a) may:

- (i) ask the suspected minor for proof of age;
- (ii) ask the person who accompanies the suspected minor for proof of age; and
- (iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A state ~~((store))~~ warehouse employee shall refuse to sale liquor to the suspected minor and to the person who accompanies the suspected minor into the state ~~((store))~~ warehouse if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(d) A state ~~((store))~~ warehouse employee shall require a suspected minor and the person who accompanies the suspected minor into the state ~~((store))~~ warehouse to immediately leave the premises of the state ~~((store))~~ warehouse if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(7)

(a) A state ~~((store))~~ warehouse may not ~~((sale,))~~ wholesale, sell, offer for wholesale, ~~((sale,))~~ or furnish liquor except in a sealed container.

(b) A person may not open a sealed container on the premises of a state ~~((store))~~ warehouse.

~~((8) On or after October 1, 2011, a state store may not sale, sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.))~~

#### **SECTION 34. SECTION 32B-2-504 IS AMENDED TO READ**

##### **32B-2-504 Delivery of liquor ~~((to))~~ from a state ~~((store))~~ warehouse.**

(1) Liquor to be sold ~~((from a state store))~~ to a licensee or permittee may be transported from a regional state warehouse authorized by the department to ~~((the state store))~~ the licensee or permittee's premises if transported by a person authorized by the ~~((department))~~ licensee or permittee to transport the liquor to their premises ~~((the state store, including a common carrier))~~ or a person or entity licensed in accordance with Chapter 17 Liquor Transport Liquor Act.

(2) A person, while in or about a vehicle in which liquor is being transported, may not open, break, or allow to be opened or broken, a container containing liquor.

(3) A person may not drink, use, or allow to be drunk or used, liquor while it is in transit under this section.

#### **SECTION 35. SECTION 32B CHAPTER 2, PART 6 IS AMENDED TO READ**

##### **Part 6 Package Agency License**

#### **SECTION 36. SECTION 32B-2-601 IS AMENDED TO READ**

##### **32B-2-601 Commission's power to issue a package agency license.**

(1)

(a) The commission may ~~((, when the commission considers proper,))~~ issue ~~((authority))~~ a license to operate as a package agency ~~((by directing the department to enter into a package agency agreement with a person to))~~ for the retail sale ~~((sell, offer for sale,))~~ or furnishing of liquor in sealed containers for the consumption off the package agencies premises. ~~((from premises other than those owned or leased by the state.))~~

(b) The commission shall authorize a person to operate a package agency by issuing a ~~((record))~~ license that designates the person in charge of the package agency as a "package agent."

(2)

(a) Subject to this Subsection (2), the commission may not issue a total number of package ~~((agencies))~~ agency licenses that at any time exceeds the number determined by dividing the population of the state by ~~((18,000))~~ 16,000.

(b)

(i) The commission may issue a seasonal package agency license in an area the commission considers proper.

(ii) A seasonal package agency license shall be for a period of six consecutive months.

(iii) A seasonal package agency license issued for operation during a summer time period is known as a "Seasonal A" package agency license. The period of operation for a Seasonal A package agency license shall:

(A) begin on May 1; and

(B) end on October 31.

(iv) A seasonal package agency license issued for operation during a winter time period is known as a "Seasonal B" package agency license. The period of operation for a Seasonal B package agency license shall:

(A) begin on November 1; and

(B) end on April 30.

(v) In determining the number of package ~~((agencies))~~ agency licenses that the commission may issue under this section:

(A) a seasonal package agency license is counted as one-half of one package agency license; and

(B) each Seasonal A package agency license shall be paired with a Seasonal B package agency license.

(c)

(i) If the location, design, and construction of a hotel may require more than one package agency license sales location to serve the public convenience, the commission may authorize a single package agent to sell liquor at as many as three locations within the hotel under one package agency license if:

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

(B) all locations under the package agency license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the package agent.

(ii) A facility other than a hotel shall have a separate package agency license for each location where liquor may be sold, offered for sale, or furnished.

(3)

(a) A package agent ~~((, under the direction of the department,))~~ is responsible for implementing and enforcing this title and the rules adopted under this title to the extent this title and the rules relate to the conduct of the package agency licensee and a package agency's sale of liquor.

(b) A package agent may not be a state employee. A package agent may not be construed to be a state employee or otherwise entitled to any benefit of employment from the state.

~~((c) A package agent, when selling liquor from a package agency, is considered an agent of the state only to the extent specifically expressed in the package agency agreement.))~~

(4) The commission may prescribe by rule one or more types of package ~~((agencies))~~ agency licenses issued under this part that are consistent with this title.

## **SECTION 37. SECTION 32B-2-602 IS AMENDED TO READ**

### **32B-2-602 Application requirements for a package agency license.**

(1) Before a person or business may store, sell, offer for sale, or furnish liquor in a sealed container on its premises under a package agency license, the person shall first obtain a package agency license issued by the

commission in accordance with this part.

(2) To obtain a package agency license, a person seeking to be the package agent under this part shall submit to the department:

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

~~((b))~~ (b) a nonrefundable application fee of ~~(\$125)~~ \$250;

~~((c))~~ (c) an initial license fee that is refundable if a package agency license is not granted in the amount of:

<u>Based on square footage of the Package Agent License</u>		<u>Renewal Fee</u>
	<u>under 10,000 square feet</u>	<u>\$1,500</u>
	<u>Over 10,000 square but less than 40,000 square feet</u>	<u>\$4,500</u>
	<u>equals or exceeds 40,000 square feet</u>	<u>\$7,500</u>

~~((c))~~ (d) written consent of the local authority;

~~((d))~~ (e) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

~~((e))~~ (f) a bond as specified by Section 32B-2-604;

~~((f))~~ (g) a floor plan of the premises, including a description and highlighting of that part of the premises in which the person proposes to sell, offer for sale, or furnish liquor in sealed containers ~~((that the package agency))~~ will be located; and

(i) for new package agencies at new locations with a license effective after July 1<sup>st</sup>, 2025, the dedicated space for selling, offering for sale, or furnishing spirituous liquor, wine, beer, heavy beer, and flavored malt beverages in sealed containers may not exceed 15% of the total square footage of the package agency's facility; and

(ii) the dedicated space for selling, offering for sale, or furnishing spirituous liquor, wine, beer, heavy beer, and flavored malt beverages:

(A) must be walled off or kept separate in an aisle(s), a cabinet, or other manner;

(B) have a separate entrance and or exit to the aisle or designated area;

(C) display a sign at an entrance and or exit that reads: WARNING MINORS PROHIBITED UNLESS ACCOMPANIED BY AN ADULT OR LEGAL GUARDIAN; and

(D) the dedicated space may include refrigeration.

(iii) package agencies over 4,000 square feet must have one or more dedicated employees on duty during normal business hours to monitor customer identification, restock, and merchandise.

~~((g))~~ (h) evidence that the package agency licensee is carrying public liability insurance in an amount and form satisfactory to the department;

~~((h))~~ (i) a signed consent form stating that the package agent permits any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the package agency's licensed premise;

~~((i))~~ (j) if the person applying is an entity, verification that a person who signs the package agency license application is authorized to sign on behalf of the entity; and

~~((j))~~ (k) any other information the commission or department may require.

(3) The commission may not issue a package agency license to a person who is disqualified under Section 32B-1-304.

(4) The commission may not issue a package agency license for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) For the renewal of a package agency ~~((agreement))~~ license, the package agent shall submit to the department any information the commission or department may require.

(6) Package Agencies previously operating under an agreement contract with the department and converting



to a Package Agency License are exempt from (2)(g).

**SECTION 38. SECTION 32B-2-602.2 IS ENACTED TO READ**

**32B-2-602.2 Renewal fees of a package agency license.**

- (1) A package agency license expires on the last day of February each year.
- (2) To renew a package agency license, a package agency or package agent shall, no later than January 31, submit:
  - (a) a completed renewal application to the department in a form prescribed by the department; and
  - (b) a renewal fee in the following amount:

<u>Based on square footage of the Package Agent Licensee</u>		<u>Renewal Fee</u>
	<u>under 10,000 square feet</u>	<u>\$750</u>
	<u>Over 10,000 square but less than 40,000 square feet</u>	<u>\$2,500</u>
	<u>equals or exceeds 40,000 square feet</u>	<u>\$5,000</u>

- (3) A package agency licensee automatically forfeits the package agency license if the package agency licensee fails to satisfy the renewal requirements described in this section.

**SECTION 39. SECTION 32B-2-603 IS AMENDED TO READ**

**32B-2-603 Commission and department duties before issuing a package agency license.**

- (1)
  - (a) Before the commission may issue a package agency license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission to assure appropriate service to the general population of the state.
  - (b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.
- (2) Before issuing a package agency license, the commission shall:
  - (a) determine that the person filed a complete application and is in compliance with Section 32B-2-602;
  - (b) determine that the person is not disqualified under Section 32B-1-304;
  - (c) determine that the package agency premises complies with the zoning ordinances of the locality where the package agency license will be located;
  - (d) consider the locality within which the proposed package agency license will be located, including:
    - (i) physical characteristics, such as:
      - (A) condition of the premises;
      - (B) square footage;
      - (C) parking; and
      - (D) delivery access; and
    - (ii) operational factors, such as:
      - (A) tourist traffic;
      - (B) access to the public;
      - (C) demographics;
      - (D) population to be served;
      - (E) the nature of surrounding establishments;
      - (F) proximity to and density of other ~~((state stores, package agencies, and retail))~~ licensees;
      - (G) proximity to residential communities; and

- (H) the extent of and proximity to educational, religious, and recreational facilities;
- (e) consider the person's ability to manage and operate a package agency license, including:
  - (i) management experience;
  - (ii) past retail liquor experience;
  - (iii) the type of establishment or business in which the package agency license may be located;
  - (iv) hours of operation; and
  - (v) ability to maintain inventory levels ~~((as set by the department))~~; and
- (f) consider any other factor the commission considers necessary.

#### SECTION 40. SECTION 32B-2-604 IS AMENDED TO READ

##### 32B-2-604 Bond related to package agency license.

~~(((1)))~~

~~(((a) A package agent who has a consignment liquor inventory owned by the state shall post a:))~~

~~(((i) consignment surety bond:))~~

~~(((A) payable to the department; and))~~

~~(((B) in the amount of the consignment inventory; and))~~

~~(((ii) cash or surety bond:))~~

~~(((A) payable to the department; and))~~

~~(((B) in the penal amount of at least \$1,000, as the department determines.))~~

~~(((b) A package agent who has a consignment liquor inventory shall ensure that a consignment surety bond is conditioned upon a package agent's return of the unsold consignment liquor inventory at the termination of a package agency agreement.))~~

~~(((2)))~~ (1) A package agent that owns the package agency's liquor inventory shall post a cash bond or surety bond:

(a) in the penal amount of at least ~~(\$1,000)~~ \$5,000, as the department determines; and

(b) payable to the department.

~~(((3)))~~ (2) A package agent shall procure and maintain the bond required under this section for as long as the package agent continues to operate as a package agent.

~~(((4)))~~ (3) A bond required under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the package agent's faithful compliance with this title, the rules of the commission, and the package agency ~~((agreement))~~ license.

~~(((5)))~~ (4)

(a) If a surety bond posted by a package agency licensee under this section is canceled due to the package agent's or package agency's negligence, the department may assess a \$300 reinstatement fee.

(b) No part of a bond posted by a package agent under this section may be withdrawn:

(i) during the period the package agency license is in effect; or

(ii) while a revocation of the package agency license is pending against the package agent.

~~(((6)))~~ (5)

(a) A bond posted under this section by a package agent may be forfeited if the package agency license is revoked.

(b) Notwithstanding Subsection (6)(a), the department may make a claim against a bond posted by a package agent for money owed the department under this title without the commission first revoking the package agency license.

#### SECTION 41. SECTION 32B-2-605 IS AMENDED TO READ

##### 32B-2-605 Operational requirements for package agency license.

(1)

(a) A person may not operate a package agency until a package agency ~~((agreement is entered into by the package agent and))~~ license is granted by the department.

(b) A package agency ~~((agreement))~~ license shall state the conditions of operation by which the package agent ~~((and the department are))~~ is bound.

(c)

(i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency ~~((agreement))~~ license, the department may take any action against the package agent or staff of the package agency licensee. ~~((that is allowed by the package agency agreement.))~~

(ii) An action against a package agent is governed solely by its package agency ~~((agreement))~~ license and may include suspension or revocation of the package agency license.

~~((iii)) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.))~~

~~((iv))~~ ~~((iii))~~ A package agency ~~((agreement))~~ license shall provide that the package agency license is subject to covert investigations for selling an alcoholic product to a minor.

~~((v))~~ ~~((iv))~~ Notwithstanding that this part refers to “package agency license” or “package agent,” staff of the package agency license or package agent is subject to the same requirement or prohibition.

(2)

(a) A package agency license shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual or individuals designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency license.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person(s) operating or employed by the package agency licensee to the department. ~~((for the department's approval)).~~

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individuals designated to operate or employed by a package agency license. ~~((; and))~~

~~((ii)) receive prior approval from the department before implementing the change described in this Subsection (2)(f).))~~

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency ~~((agreement))~~ license.

(3)

(a) A package agent shall display in a prominent place in the package agency's licensed premises the record issued by the commission that designates the package agency as a licensee.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: “WARNING”;

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

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

(iv) a header that reads: “WARNING”; and

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

(c)

(i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

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

(4) A package agency licensee may not display liquor or a price list in a window or showcase that is visible to passersby.

(5)

(a) A package agency licensee may not purchase liquor from a person except from the department~~((--))~~; or ~~(((b)))~~ ~~((At the discretion of the department, the department may provide liquor to a package agency for sale on consignment.))~~

(i) A wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act;

(ii) A manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act; or

(iii) Beer, heavy beer, or flavored malt beverages from a beer wholesaler.

(6) A package agency licensee may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency's licensed premises.

(7)

(a) ~~((Except as provided in Subsection (7)(b), a))~~ A package agency licensee may not sell, offer for sale, or furnish liquor below 13% markup over the wholesale acquisition cost. ~~((except at a price fixed by the commission.))~~

(i) A package agency licensee shall sell, offer for sale, or furnish liquor at prices consistent with a supplier's recommended national MSRP.

(ii) A package agency licensee may not sale, offer for sale, or furnish liquor at a discount during 2 consecutive calendar months.

(b) A package agency licensee may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if:

(i) the package agency license is the type of package agency license that authorizes the package agency license to sell, offer for sale, or furnish an alcoholic product as part of room service;

(ii) staff of the package agency licensee provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency licensee does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product:

(A) is not a spirituous liquor; and

(B) is in an unopened container not to exceed 750 milliliters.

(8) A package agency licensee may not sell, offer for sale, or furnish liquor to:

(a) a minor;

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

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9)

(a) A package agency licensee may not employ a minor to handle liquor.

(b)

(i) Staff of a package agency licensee may not:

(A) consume an alcoholic product on the premises of a package agency license; or

(B) allow any person to consume an alcoholic product on the premises of a package agency license.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10)

- (a) A package agency licensee may not close or cease operation for a period longer than 72 hours, unless:
- (i) the package agency licensee notifies the department in writing at least seven days before the day on which the package agency licensee closes or ceases operation; and
  - (ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency licensee shall immediately notify the department by telephone.

(c)

- (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.
- (ii) The department may extend the initial period described in Subsection (10)(c)(i) an additional 30 days upon written request of the package agency licensee and upon a showing of good cause.
- (iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

- (i) the dates of closure or cessation of operation;
- (ii) the reason for the closure or cessation of operation; and
- (iii) the date on which the package agency licensee will reopen or resume operation.

(e) Failure of a package agency licensee to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency ~~((agreement))~~ license effective immediately.

(f) Failure of a package agency licensee to reopen or resume operation by the approved date results in an automatic termination of the package agency ~~((agreement))~~ license effective on that date.

(11) A package agency licensee may not transfer the package agency's licensed operations from one location to another location without prior written approval of the commission.

(12)

(a) A person, having been issued a package agency license, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency license to another person, whether for monetary gain or not.

(b) A package agency license has no monetary value for any type of disposition.

(13)

(a) Subject to the other provisions of this Subsection (13):

~~(((i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:))~~

~~(((A) on Sunday; or))~~

~~(((B) on a state or federal legal holiday.))~~

~~(((ii))) (i) Sale or delivery of liquor, beer, heavy beer, and flavored malt beverages may be made to the premises of a package agency license Monday through Friday during the hours of 8:00 am and cease at 5:00 p.m., and a package agency license may be open for the retail sale of liquor during a period that begins at 11:00 a.m. and ends at 10:00 p.m. ((, only on a day and during hours that the commission directs by rule or order.))~~

(b) A package agency license located at a manufacturing facility is not subject to Subsection (13)(a) if:

- (i) the package agency license is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act; and
- (ii) the package agency license only sells an alcoholic product produced at the manufacturing facility.

(c)

(i) Subsection (13)(a) does not apply to a package agency license held by the following ~~((if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store))~~:

(A) a resort licensee; or

(B) a hotel licensee.

~~(((ii) The commission may by rule define what constitutes a package agency that sells liquor “in a manner similar to a state store.”))~~

(d) A package agency may be open for daily business during hours subject to Subsection (13)(a)(i) set solely at the package agencies’ discretion.

(14)

(a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency license unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor’s parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency license that has reason to believe that a person who is on the premises of a package agency license is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency license shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency licensed premises if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency license shall require the suspected minor and the person who accompanies the suspected minor into the package agency’s licensed premises to immediately leave the premises of the package agency license if the minor or person fails to provide information specified in Subsection (14)(b).

(15)

(a) A package agency licensee shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency license.

(c) Notwithstanding Subsection (15)(a), a package agency license may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency license is the type of package agency license that authorizes the package agency license to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency licensee providing the liquor in person only to an adult guest in the guest room or privately owned dwelling unit;;

(B) staff of the package agency licensee not leaving the liquor outside a guest room or privately owned dwelling unit for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) A package agency license may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

~~(((17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.))~~

~~(((18)))~~ (17) The commission may prescribe by policy or rule general operational requirements of a package agency license that are consistent with this title and relate to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

~~(((19)))~~ (18) A package agency license may not maintain a minibar.

(19) A package agent, designee, and staff of the package agent involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete the alcohol training and education seminar in accordance with the department.

(20) A package agent, designee, and staff of the package agent involved in the sale, offer for sale, or furnishing of an alcoholic product shall wear an identification badge.

## **SECTION 42. SECTION 32B-2-605.2 IS ENACTED TO READ**

### **32B-2-605.2 Recordkeeping.**

(1) A package agency licensee shall make and maintain a record showing in detail:

(a) quarterly expenditures made separately for:

- (i) malt or brewed beverages;
- (ii) beer;
- (iii) heavy beer;
- (iv) spirituous liquor;
- (v) wine;
- (vi) any other item required by the department; and

(b) quarterly retail sales and any wholesale sales for spirituous liquor or wine sold to on-premise retail licensees and special use permittees in rural areas over 50 miles from a state warehouse made separately for:

- (i) flavored malt beverages;
- (ii) beer;
- (iii) heavy beer;
- (iv) spirituous liquor;
- (v) wine;
- (vi) any other item required by the department.

(2) A package agency licensee shall make and maintain a record required by Subsection (1):

- (a) in a form approved by the department; and
- (b) current for each three-month period.

(3) A package agency license shall support an expenditure by:

- (a) a delivery ticket;
- (b) an invoice;
- (c) a receipted bill;
- (d) a canceled check;
- (e) a petty cash voucher; or
- (f) other sustaining datum or memorandum.

(4) In addition to a record required under Subsection (1), a package agency licensee shall make and maintain any other record the department may require.

(5)

(a) A record of a package license is subject to inspection by an authorized representative of the commission and the department.

(b) A package licensee shall allow the department, through an auditor or examiner of the department, to audit the records of the package license at times the department considers advisable.

(6) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this section.

#### **SECTION 43. SECTION 32B-2-606 IS AMENDED TO READ**

##### **32B-2-606 Delivery of liquor to a package agency license.**

(1) Liquor to be sold from a package agency license may be ~~((transported from a warehouse or state store authorized by the department to the package agency if transported by a person authorized by the department to transport the liquor to the package agency, including a common carrier.))~~ picked up and transported by a package agent or designee authorized by the package agent to the licensed premises from a state warehouse, a warehouse licensed under Chapter 12, Liquor Warehousing License Act, or a licensee licensed under Chapter 11, Manufacturer and Related Licenses Act; or

(a) delivered by:

- (i) a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act;
- (ii) a person licensed in accordance with Chapter 17, Liquor Transport License; and
- (iii) for beer, heavy beer, and flavored malt beverages, by a beer wholesaler or small brewer.

(2) A person, while in or about a vehicle in which liquor is being transported, may not open, break, or allow to be opened or broken, a container containing liquor.

(3) A person may not drink, use, or allow to be drunk or used, any liquor while the liquor is in transit under this section.

#### **SECTION 44. SECTION 32B-2-607 IS REPEALED**

##### ~~**((32B-2-607 Return of inventory by package agent.))**~~

~~——((A package agent shall immediately return to the department liquor previously received from the department on consignment that remains unsold at the time the package agent's package agency agreement terminates or the liquor is subject to immediate seizure by the department.))~~

#### **SECTION 45. SECTION 32B CHAPTER 2, PART 7 IS REPEALED**

~~**((Part 7))**~~

~~**((Wine Subscription Program))**~~

#### **SECTION 46. SECTION 32B-2-701 IS REPEALED**

##### ~~**((32B-2-701 Definitions.))**~~

~~——((As used in this part:))~~

~~(((1) "Division" means the Division of Consumer Purchasing created in Section 32B-2-212.))~~

~~(((2) "Subscriber" means an individual who subscribes to a wine subscription as described in Subsection 32B-2-702(2).))~~

~~(((3) "Subscription program" means the wine subscription program established in Section 32B-2-702.))~~

~~(((4) "Wine subscription" means an arrangement in which a customer pays a recurring price at regular intervals for a product that involves the shipment or transportation of wine.))~~

~~(((5) "Wine subscription business" means a person that:))~~

~~(((a) sells or offers for sale a wine subscription; and))~~

~~(((b) contracts with the department to participate in the subscription program.))~~

#### **SECTION 47. SECTION 32B-2-702 IS REPEALED**



**~~((32B-2-702 Wine subscription program.))~~**

~~((1) The division shall establish and administer a wine subscription program as described in this part.))~~

~~((2) The subscription program shall permit an individual to subscribe to a wine subscription that a wine subscription business sells or offers for sale by:))~~

~~((a) enrolling in the wine subscription program in a manner the division prescribes;))~~

~~((b) authorizing the division to purchase the wine subscription in the individual's name;))~~

~~((c) paying the division, in a manner the division prescribes:))~~

~~((i) the price of the wine subscription;))~~

~~((ii) in addition to any tax, the markup described in Subsection 32B-2-304(4); and))~~

~~((iii) a fee the division charges in accordance with Subsection 32B-2-703(1); and))~~

~~((d) designating the state store or package agency at which the individual would prefer to collect the wine.))~~

~~((3) The division shall:))~~

~~((a) designate by contract with a wine subscription business the department warehouse to which the wine subscription business ships or transports wine under the subscription program;))~~

~~((b) deliver wine purchased through the subscription program to the appropriate state store or package agency; and))~~

~~((c) notify a subscriber when wine purchased through the subscription program is ready for the subscriber to collect from the state store or package agency described in Subsection (3)(b).))~~

**SECTION 48. SECTION 32B-2-703 IS REPEALED**

**~~((32B-2-703 Fees — Rulemaking.))~~**

~~((1) The division may charge a fee as part of the subscription program:))~~

~~((a) in accordance with Section 63J-1-504; and))~~

~~((b) to cover costs to the division for administering the subscription program.))~~

~~((2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of this part, including rules designating which package agencies may receive from the division wines that are purchased through the subscription program.))~~

**SECTION 49. SECTION 32B CHAPTER 2, PART 8 IS AMENDED TO READ**

**Part ~~((8))~~ 7**  
**Consumer Purchasing System**

**SECTION 50. SECTION 32B-2-801 IS AMENDED TO READ**

**~~((32B-2-801)) 32B-2-701 Definitions.~~**

As used in this part:

(1) "Consumer purchasing system" means the consumer purchasing system established in Section ~~((32B-2-802))~~ 32B-2-702.

(2) "Division" means the Division of Consumer Purchasing created in Section 32B-2-212.

**SECTION 51. SECTION 32B-2-802 IS AMENDED TO READ**

~~((32B-2-802))~~ **32B-2-702 Consumer purchasing system.**

- (1) The division shall establish and administer a consumer purchasing system that:
- (a) allows a person to:
    - (i) order an alcoholic product from an approved vendor through the division; and
    - (ii) pick up an alcoholic product ordered as described in Subsection (1)(a)(i) from ~~((a state store))~~ a liquor store licensee or package agency licensee; and
  - (b) requires a person ordering an alcoholic product as described in Subsection (1)(a) to, at the time the order is made:
    - (i) designate ~~((a state store))~~ a liquor store licensee or package agency licensee at which the person would prefer to collect the alcoholic product; and
    - (ii) pay the ~~((division))~~ licensee for the alcoholic product order in full, including:
      - (A) the cost of the alcoholic product; and
      - (B) in addition to any sales tax, the markup described in Section 32B-2-304, and the retail markup set by the liquor store licensee or package agency licensee.
- (2) The division shall:
- (a) ensure that an alcoholic product ordered through the consumer purchasing system is shipped or transported to a department warehouse;
  - (b) deliver an alcoholic product ordered through the consumer purchasing system to the appropriate ~~((state store))~~ liquor store licensee or package agency licensee;
  - (c) notify the person who ordered an alcoholic product through the consumer purchasing system when the alcoholic product has been sent to the designated liquor store licensee or package agency licensee ~~((is ready for the person to collect))~~; and
  - (d) administer the consumer purchasing system in a manner that:
    - (i) is efficient;
    - (ii) ensures timely delivery of alcoholic products; and
    - (iii) frequently updates a person who orders an alcoholic product through the consumer purchasing system on the status of the order.
- (3) The division may not require that a person order a specific quantity of an alcoholic product that is:
- (a) different than a quantity the vendor offers for sale; or
  - (b) larger than the smallest quantity the vendor offers for sale.

**SECTION 52. SECTION 32B-2-803 IS AMENDED TO READ**

~~((32B-2-803))~~ **32B-2-703 Rulemaking.**

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this part.

**SECTION 53. SECTION 32B-3-204 IS AMENDED TO READ**

**32B-3-204 Disciplinary proceeding procedure.**

- (1)
- (a) Subject to Section 32B-3-202, the following may conduct an adjudicative proceeding to inquire into a matter necessary and proper for the administration of this title and rules adopted under this title:
    - (i) the commission;
    - (ii) a hearing examiner appointed by the commission to conduct a suspension, non-renewal, or revocation hearing required by law;
    - (iii) the director; and
    - (iv) the department.
  - (b) Except as provided in this section or Section 32B-2-605, a person described in Subsection (1)(a) shall

comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

(c) Except when otherwise provided by law, an adjudicative proceeding before the commission or a hearing examiner appointed by the commission shall be:

(i) video or audio recorded; and

(ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding concerning departmental personnel in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act.

(e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures made by the commission, director, or department.

(2)

(a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted under the authority of the commission, which is responsible for rendering a final decision and order on a disciplinary matter.

(b)

(i) The commission may appoint a necessary officer, including a hearing examiner, from within or without the department, to administer the disciplinary proceeding process.

(ii) A hearing examiner appointed by the commission:

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

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

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

(II) conclusions of law; and

(III) recommendations.

(iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a penalty more severe than that initially sought by the department in the notice of agency action.

(iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served upon the respective parties.

(v) Before final commission action, the commission shall give a respondent and the department reasonable opportunity to file a written objection to a hearing examiner report.

(3)

(a) The commission or an appointed hearing examiner shall preside over a disciplinary proceeding hearing.

(b) A disciplinary proceeding hearing may be closed only after the commission or hearing examiner makes a written finding that the public interest in an open hearing is clearly outweighed by factors enumerated in the closure order.

(c)

(i) The commission or an appointed hearing examiner as part of a disciplinary proceeding hearing may:

(A) administer an oath or affirmation;

(B) take evidence, including evidence provided in relation to an order to show cause the department issued in accordance with Section 32B-3-202;

(C) take a deposition within or without this state; and

(D) require by subpoena from a place within this state:

(I) the testimony of a person at a hearing; and

(II) the production of a record or other evidence considered relevant to the inquiry.

(ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and produce a record or tangible thing as required in the subpoena.

(iii) A witness subpoenaed, called to testify, or called to produce evidence who claims a privilege against self-incrimination may not be compelled to testify, but the commission or the hearing examiner shall file a written report with the county attorney or district attorney in the jurisdiction where the privilege is claimed or where the witness resides setting forth the circumstance of the claimed privilege.

- (iv)
    - (A) A person is not excused from obeying a subpoena without just cause.
    - (B) A district court within the judicial district in which a person alleged to be guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to:
      - (I) appear before the issuing party; and
      - (II)
        - (Aa) produce documentary evidence if so ordered; or
        - (Bb) give evidence regarding the matter in question.
    - (C) Failure to obey an order of the court may be punished by the court as contempt.
  - (d) In a case heard by the commission, the commission shall issue its final decision and order in accordance with Subsection (2).
- (4)
- (a) The commission shall:
    - (i) render a final decision and order on a disciplinary action; and
    - (ii) cause its final order to be prepared in writing, issued, and served on all parties.
  - (b) An order of the commission is final on the date the order is issued.
  - (c) The commission, after the commission renders its final decision and order, may require the director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.
- (5)
- (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by the commission or a hearing examiner appointed by the commission shall proceed formally in accordance with Sections 63G-4-204 through 63G-4-209 if:
    - (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health, and welfare;
    - (ii) the alleged violation involves:
      - (A) selling or furnishing an alcoholic product to a minor;
      - (B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct, and Entertainment Act;
      - (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf of the respondent;
      - (D) interfering or refusing to cooperate with:
        - (I) an authorized official of the department or the state in the discharge of the official's duties in relation to the enforcement of this title; or
        - (II) a peace officer in the discharge of the peace officer's duties in relation to the enforcement of this title;
      - (E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;
      - (F) unlawful importation of an alcoholic product; or
      - (G) unlawful supply of liquor by a liquor industry member, as defined in Section 32B-4-702, to a person other than the department, an on-premise or off-premise retailer, or a military installation, except to the extent permitted by this title; or
    - (iii) the department determines to seek in a disciplinary proceeding hearing:
      - (A) an administrative fine exceeding \$3,000;
      - (B) a suspension of a license, permit, or certificate of approval of more than 10 days; or
      - (C) a revocation of a license, permit, or certificate of approval.
  - (b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by the commission in accordance with Subsection (5)(c).
  - (c) The commission shall make rules to provide a procedure to implement this Subsection (5).
- (6)

- (a) If the department recommends nonrenewal of a license, the department shall notify the licensee of the recommendation at least 15 days before the commission takes action on the nonrenewal.
- (b) Notwithstanding Subsection (2), the commission shall appoint a hearing examiner to conduct an adjudicative hearing in accordance with this section if the licensee files a request for a hearing within 10 days of receipt of the notice under Subsection (6)(a).

#### **SECTION 54. SECTION 32B-3-205 IS AMENDED TO READ**

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

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

- (a) suspend or revoke the person's license, permit, or certificate of approval;
- (b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;
- (c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or
- (d) take a combination of actions described in this Subsection (1).

(2)

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

- (i) a single notice of ~~((agency))~~ action, ~~((; or))~~  
~~((ii) a single action against a package agency.))~~

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

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

(3) The department shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

(4)

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

- (i) during the suspension; and
- (ii) at the entrance of the premises of the licensee or permittee.

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

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

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

(5)

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

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

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

(7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized by this title, the commission may prohibit the staff member

from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.

(8)

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

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

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

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

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

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

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

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

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

(b) imposition of a fine.

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

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

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

(11) The commission shall expunge each record that relates to an individual's violation of a provision of this title, if the individual does not violate a provision of this title for a period of 36 consecutive months from the day on which the individual's last violation was adjudicated.

## **SECTION 55. SECTION 32B-3-206 IS AMENDED TO READ**

### **32B-3-206 Dishonored checks.**

(1) If a check issued in payment of a fee or cost authorized or required by this title is returned to the department as dishonored:

(a) the department may assess a service charge in an amount set by commission rule against the person on whose behalf the check was tendered;

(b) if the check that is returned to the department is from a ~~((package agent,))~~ licensee ~~((,))~~ or permittee, the commission may:

(i) suspend or revoke the license or permit ~~((, or))~~

~~((ii) suspend or terminate the operation of the package agency;))~~

(c) the department may require that the person who paid with the dishonored check only pay money owed to the department under this title with cash for the time period determined by the department; or

(d) the department or commission may take a combination of actions as provided in this Subsection (1).

(2)

(a) If a license or permit is revoked under this section, the commission may require the forfeiture of the bond of the licensee or permittee.

(b) Notwithstanding Subsection (2)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first

revoking the license or permit.

~~(((3)))~~

~~(((a) If the operation of a package agency is terminated under this section and the department has posted a bond for the package agency, the commission may require the forfeiture of the bond.))~~

~~(((b) Notwithstanding Subsection (3)(a), the department may make a claim against a bond posted for a package agency without the commission first terminating the operation of the package agency.))~~

## **SECTION 56. SECTION 32B-4-209 IS AMENDED TO READ**

### **32B-4-209 Lawful detention.**

(1)

(a) To inform a peace officer of a suspected violation and subject to the requirements of Subsection (1)(c), a person described in Subsection (1)(b) may:

(i) detain a person; and

(ii) hold any form of identification presented by the person.

(b) The following may take an action described in Subsection (1)(a):

(i) a state ~~((store))~~ warehouse employee;

~~(((ii) a package agent;))~~

~~(((iii)))~~ (ii) a licensee or permittee;

~~(((iv)))~~ (iii) a beer retailer; or

~~(((v)))~~ (iv) staff of a person described in Subsections (1)(b)(ii) through ~~(((iv)))~~ (iii).

(c) A person described in Subsection (1)(b) may take an action described in Subsection (1)(a) only:

(i) if that person has reason to believe that the person against whom the action is taken is:

(A) in a facility where liquor or beer is sold; and

(B) in violation of Section 32B-4-409, 32B-4-412, or 32B-4-413;

(ii) in a reasonable manner; and

(iii) for a reasonable length of time.

(2) Unless the detention is unreasonable under all circumstances, the detention or failure to detain does not create criminal or civil liability for:

(a) false arrest;

(b) false imprisonment;

(c) slander; or

(d) unlawful detention.

## **SECTION 57. SECTION 32B-4-401 IS AMENDED TO READ**

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

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

(2) It is unlawful for a person in the business of selling liquor, a manufacturer, a supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state location directly or indirectly into this state except a person licensed under Chapter 20, Direct Shipping Wholesaler License Act or Chapter 21, Wine Club Direct License Act and to the extent authorized by this title to:

(a) the department;

(b) a military installation;

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

(d) a liquor warehouser licensee licensed to distribute and transport liquor to:

- (i) the department; or
- (ii) an out-of-state wholesaler or retailer~~((--))~~; or
- (iii) a licensee.

(e) an on-premise retail licensee;

(f) a package agency licensee;

(g) a liquor store licensee; or

(h) to a person, as a registered wine club member, approved to receive wine shipments direct from a winery or specialty retailer as part of an exclusive wine club licensed under Chapter 21, Wine Club Direct License Act.

(3)

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

(i) a beer wholesaler licensee;

(ii) a military installation; or

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

(b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of approval from selling, shipping, or transporting beer, heavy beer, or flavored malt beverages to the extent authorized by Subsection 32B-11-503(5) directly to:

(i) a beer wholesaler ~~((retailer))~~;

(ii) a military installation; ~~((an event permittee; or --))~~

(iii) a licensee; or

(iv) beer to a beer retailer; or

(v) an event permittee.

(4)

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

(i) the department;

(ii) a military installation;

(iii) a holder of a special use permit, to the extent authorized in the special use permit; or

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

(A) the department; or

(B) an out-of-state wholesaler or retailer~~((--))~~; or

(C) a licensee.

(v) an on-premise retail licensee;

(vi) a liquor store licensee;

(vii) a package agency licensee; or

(viii) a permittee.

(b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this state from selling wine to a person on its winery premises:

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

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

(c) Subsection (4)(a) does not preclude a distillery manufacturing licensee located in this state from selling liquor on its distillery premises:

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

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



- (d) Subsection (4)(a) does not preclude a brewery manufacturing licensee located in this state from selling heavy beer or flavored malt beverages on its brewery premises:
- (i) to the extent authorized under Subsection 32B-11-503(4); or
  - (ii) under a package agency license issued by the commission on its brewery premises.
- (5)
- (a) It is unlawful for a manufacturer, supplier, or importer of beer, heavy beer, or flavored malt beverages in this state, or staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold, shipped, or transported beer, heavy beer, or flavored malt beverages directly or indirectly to a person in this state except to the extent authorized by this title to:
- (i) a beer wholesaler licensee;
  - (ii) a military installation; or
  - (iii) a holder of a special use permit, to the extent authorized in the special use permit.
- (b) Subsection (5)(a) does not preclude:
- (i) a small brewer who is a brewery manufacturing licensee located in this state from selling, shipping, and transporting beer, heavy beer or flavored malt beverages to the extent authorized by Subsection 32B-11-503(5) directly to one of the following in this state:
    - (A) a beer wholesaler; ~~((retailer; or))~~
    - (B) a military installation; ~~((an event permittee; or))~~
    - (C) a licensee; or
    - (D) beer to a beer retailer; or
    - (E) an event permittee;
  - (ii) a brewery manufacturing licensee from selling beer to a person on its manufacturing premises under Subsection 32B-11-503(4)(c).
- (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an out-of-state location directly or indirectly into this state, except as otherwise provided by this title.
- (7) It is unlawful for a person in this state other than a person described in Subsection (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product directly or indirectly to another person in this state, except as otherwise provided by this title.
- (8)
- (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise provided by this title.
  - (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.
  - (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

## **SECTION 58. SECTION 32B-4-406 IS AMENDED TO READ**

### **32B-4-406 Unlawful sale, offer for sale, or furnishing of an alcoholic product.**

- (1) Except as provided in Subsection (2):
- (a) a person may not sell, offer for sale, or furnish beer to the general public in a container that exceeds two liters; and
  - (b) a person may not purchase or possess beer in a container that exceeds two liters.
- (2)
- (a) ~~((A retail))~~ An on-premise retail licensee may sell, offer for sale, or furnish beer on draft subject to the requirements of Section 32B-5-304.
  - (b) ~~((A retail))~~ An on-premise retail licensee may purchase or possess beer in a container that exceeds two liters to be dispensed on draft for consumption subject to the requirements of Section 32B-5-304.
  - (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer heavy beer in a container that exceeds two liters to ~~((a retail))~~ an on-premise retail licensee described in Subsection (2)(a).
- (3) On or after October 1, 2011:

- (a) A person may not sell, offer for sale, or furnish heavy beer in a container that exceeds two liters.
- (b) A person may not purchase or possess heavy beer in a container that exceeds two liters.

**SECTION 59. SECTION 32B-4-414 IS AMENDED TO READ**

**32B-4-414 Unlawful possession -- Exceptions.**

A person may not possess liquor within this state unless authorized by this title or the rules of the commission, except that:

- (1) a person who clears United States Customs when entering this country may possess for personal consumption and not for sale or resale, a maximum of nine liters of liquor purchased from without the United States;
- (2) a person who enters this state may possess for personal consumption and not for sale or resale, a maximum of nine liters of liquor purchased from without the state;
- (3) a person who moves the person's residence to this state from outside of this state may possess for personal consumption and not for sale or resale, liquor previously purchased outside the state and brought into this state during the move;
- (4) a person who inherits liquor as a beneficiary of an estate that is located outside the state, may possess the liquor and transport or cause the liquor to be transported into the state if the person provides sufficient documentation to the department to establish the person's legal right to the liquor as a beneficiary; or
- (5) a person may transport or possess liquor if:
  - (a) the person transports or possesses the liquor:
    - (i) for personal household use and consumption; and
    - (ii) not for:
      - (A) sale;
      - (B) resale;
      - (C) gifting to another; or
      - (D) consumption on premises licensed by the commission;
  - (b) the liquor is purchased from a store or facility on a military installation; and
  - (c) the maximum amount the person transports or possesses under this Subsection (5) is:
    - (i) two liters of:
      - (A) spirituous liquor;
      - (B) wine; or
      - (C) a combination of spirituous liquor and wine; and
    - (ii)
      - (A) one case of heavy beer that does not exceed 288 ounces; or
      - (B) one case of a flavored malt beverage that does not exceed 288 ounces.
- (6) a person, as a registered wine club member, approved to receive wine shipments direct from a winery or specialty retailer as part of an exclusive wine club licensed under Chapter 21, Wine Club Direct License Act.

**SECTION 60. SECTION 32B-4-417 IS AMENDED TO READ**

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

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

- (1) the department;
- (2) a state warehouse; ~~((store;))~~
- (3) ~~((a package agency))~~ a direct shipping wholesaler licensee licensed under Chapter 20, Direct Shipping

Wholesaler License Act; or

(4) a manufacturing licensee licensed under Chapter 11, Manufacturing and Related Licenses Act; or

(5) for on-premise retail licensees in rural areas over 50 miles from a state warehouse:

(a) a package agency licensee at wholesale pricing; or

(b) a liquor store licensee at wholesale pricing; and

(i) the wholesale of liquor to an on-premise retail licensee is accounted for in the recordkeeping of the package agency licensee or liquor store licensee.

## **SECTION 61. SECTION 32B-4-420 IS AMENDED TO READ**

### **32B-4-420 Unlawful adulteration.**

(1) For purposes of this section, “tamper” means to do one or more of the following to the contents of a container:

(a) fortify;

(b) adulterate;

(c) contaminate;

(d) dilute;

(e) change its character or purity; or

(f) otherwise change.

(2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic product sold or supplied by the person as a beverage any of the following:

(a) a drug;

(b) methylic alcohol;

(c) a crude, unrectified, or impure form of ethylic alcohol; or

(d) another deleterious substance.

(3)

(a) The following may not engage in an act listed in Subsection (3)(b):

~~(((i) a package agent;))~~

~~(((ii)))~~ (i) a retail licensee;

~~(((iii)))~~ (ii) a permittee;

~~(((iv)))~~ (iii) a beer wholesaler licensee;

~~(((v)))~~ (iv) a liquor whouser licensee;

~~(((vi)))~~ (v) a supplier; or

~~(((vii)))~~ (vi) an importer.

(b) A person listed in Subsection (3)(a) may not:

(i) tamper with the contents of a container of alcoholic product as originally marketed by a manufacturer;

(ii) refill or partly refill with any substance the contents of an original container of alcoholic product as originally marketed by a manufacturer;

(iii) misrepresent the brand of an alcoholic product sold or offered for sale; or

(iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a purchaser without first advising the purchaser of the difference.

## **SECTION 62. SECTION 32B-4-422 IS AMENDED TO READ**

### **32B-4-422 Unlawful dispensing.**

(1) ~~((A))~~ An on-premise retail licensee licensed under this title to sell, offer for sale, or furnish spirituous liquor for consumption on the licensed premises, or staff of the on-premise retail licensee may not:

(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing

system approved by the department;

(b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per beverage;

(c) allow a person on the licensed premises to have more than a total of 2.5 ounces of spirituous liquor at a time; or

(d)

(i) except as provided in Subsection (1)(d)(ii), allow a person to have more than two spirituous liquor beverages at a time; or

(ii) allow a person on the premises of the following to have more than one spirituous liquor beverage at a time:

(A) a full-service restaurant licensee;

(B) a person operating under a full-service restaurant sublicense;

(C) an on-premise banquet licensee;

(D) a person operating under an on-premise banquet sublicense; or

(E) a single event permittee.

(2) A violation of this section is a class C misdemeanor.

## **SECTION 63. SECTION 32B-4-501 IS AMENDED TO READ**

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

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

(a) a restaurant;

(b) an airport lounge;

(c) a business operated in the same manner as a bar establishment licensee;

(d) a resort;

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

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

(g) a hotel; or

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

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

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

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

(a) a winery manufacturer;

(b) a distillery manufacturer;

(c) a brewery manufacturer;

(d) a local industry representative of:

(i) a manufacturer of an alcoholic product;

(ii) a supplier of an alcoholic product; or

(iii) an importer of an alcoholic product;

(e) a liquor warehouser; or

(f) a beer wholesaler~~((--))~~;

(g) a liquor store licensee; or

(h) a package agency license.

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

(a) on the public conveyance; or

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

#### **SECTION 64. SECTION 32B-4-602 IS AMENDED TO READ**

##### **32B-4-602 Unlawful transportation.**

(1) It is unlawful for a person, including a motor carrier, or staff of the person to order or purchase an alcoholic product or to cause an alcoholic product to be shipped, carried, or transported into this state, or from one place to another within this state except as otherwise authorized by this title.

(2) This section does not prohibit a person, including a motor carrier, from:

(a) transporting an alcoholic product in the course of export from the state; or

(b) transporting an alcoholic product across any part of this state while in transit pursuant to a bona fide consignment of the alcoholic product to a person outside of this state.

(c) transporting an alcoholic beverage to a licensee or permittee by a person licensed under Chapter 17, Liquor Transport License Act.

(d) transporting an alcoholic product for delivery to a licensee or permittee by a person licensed under Chapter 20, Direct Shipping Wholesaler License Act.

(e) a common carrier, transporting for direct-to-consumer, delivery of a wine shipment to a person as a member of an exclusive wine club of a winery or specialty retailer by a license issued under Chapter 21, Wine Club Direct License Act.

#### **SECTION 65. SECTION 32B-4-704 IS AMENDED TO READ**

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

(1)

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

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

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

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

(2)

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

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

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

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

(iii) any interest in a retail license acquired by a separate corporation in which the industry member or its

officials hold ownership or are otherwise affiliated is an interest in the retailer's property;

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

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

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

(3)

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

(b)

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

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

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

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

(A) the thing of value is furnished to a retailer by the third party without the knowledge or intent of the industry member; or

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

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

(d)

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

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

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

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

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

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

(b) subject to the exceptions:

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

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

(5) It is unlawful for an industry member, directly or indirectly, or through an affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from the department to the exclusion in whole or

in part of a product sold or offered for sale by another person by guaranteeing a loan or the repayment of a financial obligation of the retailer.

(6)

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

- (i) beer purchased or delivered during the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of the same month; and
- (ii) beer purchased or delivered after the 15th day of any month is paid for in cash or its equivalent on or before the 10th day of the next succeeding month.

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

- (i) honored on presentment; and
- (ii) received under the terms prescribed in Subsection (6)(a).

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

(7)

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

- (i) the department to take and dispose of a certain quota of a product; or
- (ii) a beer retailer to take and dispose of a certain quota of a beer product~~((or))~~; or
- (iii) a retailer to take and dispose of a certain quota of a product.

(b)

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

- (A) the department to purchase one product in order to purchase another product; or
- (B) a beer retailer to purchase one beer product in order to purchase another beer product~~((or))~~; or
- (C) a retailer to purchase one product in order to purchase another product.

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

- (A) the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium container such as:
  - (I) a distinctive decanter; or
  - (II) a wooden or tin box; or
- (B) combination sales if one or more products may be purchased only in combination with another product and not individually.

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

- (i) has the option of purchasing either product at the usual price; and
- (ii) is not required to purchase a product the department, ~~((or))~~ beer retailer, or retailer does not want.

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

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

### **32B-4-705 Exclusions from tied house prohibitions.**

(1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by an industry member to a retailer under the conditions and within the limitations prescribed in:

- (a) this section; and
- (b) the applicable federal laws cited in this section.

(2) The following may be furnished by an industry member:

- (a) a product display as provided in 27 C.F.R. Sec. 6.83;
- (b) point of sale advertising material or a consumer advertising specialty as provided in 27 C.F.R. Sec. 6.84;
- (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;
- (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;
- (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;
- (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;
- (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;
- (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;
- (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
- (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and
- (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.

(3) The following exceptions provided in federal law are not applicable:

~~(((a)) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;))~~

~~(((b)))~~ (a) the exception for a consumer tasting or sampling at a retail establishment as provided in 27 C.F.R. Sec. 6.95, unless the establishment is a liquor store licensee as provided for under Chapter 19, Liquor Store License Act; and

~~(((c)))~~ (b) the exception for participation in a retailer association activity provided in 27 C.F.R. Sec. 6.100.

(4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall maintain a record:

- (a) of an item furnished to a retailer;
- (b) on the premises of the industry member; and
- (c) for a three-year period.

(5) A sample of liquor may be provided to the department under the following conditions:

- (a) With the department's permission, an industry member may submit a department sample to the department for product testing, analysis, and sampling.
- (b) No more than two department samples of a particular type, vintage, and production lot of a particular branded product may be submitted to the department for department testing, analysis, and sampling within a consecutive 120-day period.
- (c)
  - (i) A department sample may not exceed 1 liter.
  - (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a larger size, not to exceed 5 liters:
    - (A) wine;
    - (B) heavy beer; or
    - (C) a flavored malt beverage.

(d) A department sample submitted to the department:

- (i) shall be shipped prepaid by the industry member by common carrier; and
- (ii) may not be shipped by United States mail directly to the department's central administrative warehouse office.

(e) A department sample may not be shipped to any other location within the state.

(f) The industry member shall submit with a department sample submitted to the department a letter from the industry member that clearly:

- (i) identifies the product as a "department sample"; and



- (ii) states the FOB case price of the product.
- (g)
  - (i) The department may transfer a listed item from current stock:
    - (A) for use as a comparison control sample; or
    - (B) to verify product spoilage as considered appropriate.
  - (ii) The department shall charge back a sample transferred under this Subsection (5)(g) to the respective industry member.
- (h) The department shall:
  - (i) account for, label, and record a department sample received or transferred;
  - (ii) account for the department sample's disposition; and
  - (iii) maintain a record of the sample and its disposition for a two-year period.
- (i) The department shall affix to each container of a department sample a label clearly identifying the product as a "department sample."
- (j) The department shall dispose of a department sample delivered to the department or transferred from the department's current stock in one of the following ways as chosen by the department:
  - (i) test and analyze the department sample, with the remaining contents destroyed under controlled and audited conditions established by the department;
  - (ii) destroy the entire contents of the department sample under controlled and audited conditions established by the department; or
  - (iii) add the department sample to the inventory of the department for sale to the public.
- (k) A person other than an authorized department official may not be in possession of a department sample except as otherwise provided.
- (l) The department shall handle a liquor item received by the department from a supplier that is not designated as a sample by the supplier, but that is an item not specifically listed on a department purchase order, in accordance with this Subsection (5).
- (m) The department may not use its money to pay freight or charges on a sample or a liquor item:
  - (i) shipped to the department by a supplier; and
  - (ii) not listed on a department purchase order.
- (6) A sample of beer may be provided by a beer industry member to a retailer under the conditions listed in this Subsection (6).
  - (a) A sample of beer may be provided by an industry member only to a retailer who has not purchased the brand of beer from that industry member within the last 12 months.
  - (b) For each retailer, the industry member may give not more than three gallons of any brand of beer, except that if a particular product is not available in a size within the quantity limitation, an industry member may furnish the next largest size.
- (7) An educational seminar may involve an industry member under the conditions listed in this Subsection (7).
  - (a) An industry member may provide or participate in an educational seminar:
    - (i) involving:
      - (A) the department;
      - (B) a retailer;
      - (C) a holder of a scientific or educational special use permit;
      - (D) another industry member; or
      - (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and
    - (ii) regarding a topic such as:
      - (A) merchandising and product knowledge;
      - (B) use of equipment; and
      - (C) a tour of an alcoholic product manufacturing facility.
  - (b) An industry member may not pay the expenses of or compensate a person who is a department employee, a retailer, or a permittee for attending a seminar or tour described in Subsection (7)(a).

(8)

- (a) A liquor industry member may conduct a tasting of a liquor product of the industry member:
  - (i) for the department, at the department's request; and
  - (ii) for a licensed industry representative to become educated of the characteristics and qualities of a liquor product of the industry member. ~~((, but only at the department's central administrative warehouse office.))~~
- (b) A liquor industry member may only use a department sample or industry representative sample when conducting a tasting of the industry member's liquor product.
- (c) A beer industry member may conduct a tasting of a beer product for a beer retailer either at:
  - (i) the industry member's premises; or
  - (ii) a retail establishment.
- (d) Except to the extent authorized by commission rule, an alcoholic product industry member may not conduct tasting or sampling activities with:
  - (i) a retailer, unless as provided for by the procedures outlined under 32B-11-608 (8); or
  - (ii) a member of the general public.

(9) A beer industry member may participate in a beer retailer association activity to the extent authorized by 27 C.F.R. Sec. 6.100.

(10)

- (a) An industry member may contribute to a charitable, civic, religious, fraternal, educational, or community activity, except the contribution may not be given to influence a retailer in the selection of a product that may be sold at the activity.
- (b) An industry member or retailer violates this Subsection (10) if:
  - (i) the industry member's contribution influences, directly or indirectly, the retailer in the selection of a product; and
  - (ii) a competitor's product is excluded in whole or in part from sale at the activity.

(11)

- (a) An industry member may lease or furnish equipment listed in Subsection (11)(b) to a retailer if:
  - (i) the equipment is leased or furnished for a special event;
  - (ii) a reasonable rental or service fee is charged for the equipment; and
  - (iii) the period for which the equipment is leased or furnished does not exceed 30 days.
- (b) This Subsection (11) applies to the following equipment:
  - (i) a picnic pump;
  - (ii) a cold plate;
  - (iii) a tub;
  - (iv) a keg box;
  - (v) a refrigerated trailer;
  - (vi) a refrigerated van; or
  - (vii) a refrigerated draft system.

(12)

- (a) A liquor industry member may assist the department in:
  - (i) ordering, shipping, and delivering merchandise;
  - (ii) new product notification;
  - (iii) listing and delisting information;
  - (iv) price quotations;
  - (v) product sales analysis;
  - (vi) shelf management; and
  - (vii) an educational seminar.
- (b)
  - (i) A liquor industry member may, to acquire a new listing:

(A) solicit an order from the department; and

(B) submit to the department a sample of the liquor industry member's products under Subsection (5) and price lists.

(ii)

(A) An industry member is confined to the customer areas when the industry member visits a ~~((state store))~~ liquor store licensee or package agency licensee unless otherwise approved.

(B) An industry member is confined to the office area of a state warehouse when the industry member visits a state warehouse unless otherwise approved.

(13) A beer industry member may assist a beer retailer in:

(a) ordering, shipping, and delivering beer merchandise;

(b) new product notification;

(c) listing and delisting information;

(d) price quotations;

(e) product sales analysis;

(f) shelf management; and

(g) an educational seminar.

(14) A beer industry member may, to acquire a new listing:

(a) solicit an order from a beer retailer; and

(b) submit to a beer retailer a sample of the beer industry member's beer products under Subsection (5) and price lists.

## **SECTION 67. SECTION 32B-5-102 IS ENACTED TO READ**

### **32B-5-102 Definitions.**

~~((Reserved.))~~

For the purposes of this chapter:

(1) "Retail license" means:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(2) "Retail license" does not include:

(a) a package agency license;

(b) a liquor store license.

## **SECTION 68. SECTION 32B-5-203 IS AMENDED TO READ**

### **32B-5-203 Commission and department duties before issuing a retail license.**

(1)

(a) Before the commission may issue a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a retail license and, if applicable, each accompanying sublicense should be issued.

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

(2) Before issuing a retail license, the commission shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-5-201; and

(ii) the specific licensing requirements specified in the relevant chapter or part for the type of retail license for which the person is applying;

(b) determine that the person and, if applicable, each of the person's accompanying sublicenses is not disqualified under Section 32B-1-304;

(c) consider the locality within which the proposed licensed premises and, if applicable, each proposed sublicensed premises is located, including:

(i) physical characteristics such as:

(A) condition of the licensed or sublicensed premises;

(B) square footage; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic;

(B) demographics;

(C) population to be served;

(D) proximity to and density of other state ~~((stores))~~ warehouses ~~((, package agencies,))~~ and ~~((retail))~~ licensees; and

(E) the extent of and proximity to any community location;

(d) consider the person's ability to manage and operate a retail license, and if applicable the ability of each individual who will act in a supervisory or managerial capacity for each accompanying sublicense to supervise or manage a sublicense, of the type for which the person is applying, including:

(i) management experience;

(ii) past retail alcoholic product experience; and

(iii) the type of management scheme to be used by the retail licensee or accompanying sublicensee;

(e) consider the nature or type of retail licensee operation, and if applicable each proposed accompanying sublicensee's operation, of the proposed retail licensee, including:

(i) the type of menu items that will be offered and emphasized;

(ii) whether the retail licensee or the retail licensee's accompanying sublicensee will emphasize service to an adult clientele or to minors;

(iii) the proposed hours of operation;

(iv) the seating capacity of the premises; and

(v) the estimated gross sales of food items; and

(f) consider any other factor the commission considers necessary.

(3) The commission shall determine whether an applicant under this section has an adequate kitchen or culinary facilities by considering:

(a) the type of retail license or sublicense for which the person is applying;

(b) the purpose of the proposed retail license or sublicense; and

(c) the locality within which the proposed licensed or sublicensed premises is located.

**SECTION 69. SECTION 32B-5-303 IS AMENDED TO READ**

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

- (1)
- (a) A retail licensee may not purchase liquor except from: ~~((a state store or package agency.))~~
    - (i) a state warehouse;
    - (ii) direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act; or
    - (iii) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act; or
      - (A) if the retail licensee is located in a rural area 50 miles or more from the nearest state warehouse, from a package agency licensee or liquor store licensee at wholesale pricing.
  - (b) A retail licensee may transport liquor purchased from a state warehouse, ~~((store or package agency))~~ or in a rural area 50 miles or more from the nearest state warehouse, a package agency licensee or a liquor store licensee from the place of purchase to the licensed premises.
  - (c) A retail licensee shall pay for liquor in accordance with rules established by the commission.
- (2)
- (a)
    - (i) A retail licensee may not purchase, acquire, possess for the purpose of resale, or sell beer, heavy beer, or flavored malt beverages except beer, heavy beer, or flavored malt beverages that the retail licensee purchases from:
      - (A) a beer wholesaler licensee; or
      - (B) a small brewer that manufactures the beer, heavy beer or flavored malt beverages.
    - (ii) Violation of this Subsection (2)(a) is a class A misdemeanor.
  - (b)
    - (i) If a retail licensee purchases beer, heavy beer, or flavored malt beverages under Subsection (2)(a) from a beer wholesaler licensee, the retail licensee shall purchase beer, heavy beer, or flavored malt beverages only from a beer wholesaler licensee who is designated by the manufacturer to sell beer, heavy beer and flavored malt beverages in the geographical area in which the retail licensee is located, unless an alternate wholesaler is authorized by the department to sell to the retail licensee as provided in Section 32B-13-301.
    - (ii) Violation of Subsection (2)(b) is a class B misdemeanor.
- (3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product in a place other than as designated in the retail licensee's application, unless the retail licensee first applies for and receives approval from the department for a change of location within the licensed premises.
- (4) A liquor storage area shall remain locked at all times except when:
- (a) liquor sales are authorized by law; or
  - (b) the licensee:
    - (i) inventories or restocks the alcoholic product in the liquor storage area; or
    - (ii) repairs or cleans the liquor storage area.

**SECTION 70. SECTION 32B-5-304 IS AMENDED TO READ**

**32B-5-304 Portions in which alcoholic product may be sold.**

- (1)
- (a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title.
  - (b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

- (i) a secondary flavoring ingredient;
  - (ii) used as a flavoring on a dessert; or
  - (iii) used to set aflame a food dish, drink, or dessert.
  - (c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:
    - (i) designate a location where the retail licensee stores secondary flavoring ingredients on the floor plan the retail licensee submits to the department; and
    - (ii) clearly and conspicuously label each secondary flavoring ingredient's container "flavorings".
  - (d) A patron may have no more than 2.5 ounces of spirituous liquor at a time.
- (2)
- (a)
    - (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.
    - (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.
  - (b)
    - (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters ~~((at a price fixed by the commission))~~ to a table of four or more persons.
    - (ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters ~~((at a price fixed by the commission))~~ to a table of less than four persons.
  - (c) Notwithstanding Subsections (2)(a) and (b), a retail licensee may sell, offer for sale, or furnish hard cider that contains no more than 5% of alcohol by volume in a sealed container not to exceed 16 ounces.
- (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container ~~((at a price fixed by the commission))~~, except that the original container may not exceed one liter.
- (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container ~~((at a price fixed by the commission))~~, except that the original container may not exceed one liter.
- (5)
- (a)
    - (i) Subject to Subsection (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:
      - (A) in an open original container; and
      - (B) in a container on draft.
    - (ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):
      - (A) in a size of container that exceeds two liters; or
      - (B) to an individual patron in a size of container that exceeds one liter.
  - (b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:
    - (i) in a sealed container; and
    - (ii) in a size of container that does not exceed two liters.
  - (c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

## **SECTION 71. SECTION 32B-5-305 IS AMENDED TO READ**

### **32B-5-305 Pricing of alcoholic product -- Other charge.**

- (1)
  - (a) A retail licensee may sell, offer for sale, or furnish liquor only at ~~((a))~~ prices fixed by the ~~((commission))~~ licensee.
  - (b) A retail licensee may not sell an alcoholic product at a discount price on any date or at any time.
- (2)
  - (a) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at less than 50% over the

wholesale acquisition cost of the alcoholic product to the retail licensee.

(b) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a special or reduced price that encourages overconsumption or intoxication.

(c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a special or reduced price for only certain hours of the retail licensee's business day, such as a "happy hour."

(d) A retail licensee may not sell, offer for sale, or furnish more than one alcoholic product for the price of a single alcoholic product.

(e) A retail licensee may not sell, offer for sale, or furnish an indefinite or unlimited number of alcoholic products during a set period for a fixed price.

(f) A retail licensee may not engage in a promotion involving or offering a free alcoholic product to the general public.

(3) As authorized by commission rule, a retail licensee may charge a patron for providing:

(a) a service related to liquor purchased at the licensed premises; or

(b) wine service performed for wine carried in by a patron in accordance with Section 32B-5-307.

## **SECTION 72. SECTION 32B-6-603 IS AMENDED TO READ**

### **32B-6-603 Commission's power to issue on-premise banquet license -- Contracts as host.**

(1)

(a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; or

(vii) a restaurant venue.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency license if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission:

(a) may not issue a total number of restaurant venue on-premise banquet licenses that at any time exceeds 25; and

(b) may not issue a total number of on-premise banquet licenses that at any time exceeds the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

- (a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or
  - (b) with a charge to a patron at the banquet.
- (6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:
- (a) mix for an alcoholic product; or
  - (b) a charge in connection with the furnishing of an alcoholic product.

**SECTION 73. SECTION 32B-7-407 IS AMENDED TO READ**

**32B-7-407 Licensing at certain package ~~((agencies))~~ agency licensees.**

- (1) Subject to Subsection (2), the commission may issue an off-premise beer retailer state license for a premises that is a package agency license located at a brewery manufacturing facility.
- (2) An off-premise beer retailer state licensee described in Subsection (1) may not sell beer:
  - (a) other than beer that is the product of the brewery manufacturing licensee that holds the package agency license located on the premises; or
  - (b) at a time other than a time a package agency licensee may sell liquor under Subsection 32B-2-605(13).

**SECTION 74. SECTION 32B-7-409 IS AMENDED TO READ**

**32B-7-409 Multiple licenses on same premises.**

- (1) Except as provided in Subsection (2), the commission may not issue and one or more licensees may not hold an off-premise beer retailer state license for the same licensed premises or adjacent licensed premises as a retail licensee, unless the licensed premises:
  - (a) are separated by a permanent, opaque, floor-to-ceiling wall;
  - (b) each have a separate entrance to the licensed premises; and
  - (c) each have separate restroom facilities on the licensed premises.
- (2)
  - (a) The commission may issue and an off-premise beer retailer state licensee may hold more than one type of license for the same licensed premises or adjacent licensed premises, if:
    - (i) a manufacturing licensee is located on or adjacent to the licensed premises; and
    - (ii) a package agency license is located on or adjacent to the licensed premises.
  - (b) Notwithstanding Subsection (1), the commission may issue an off-premise beer retailer state license to a hotel or resort.

**SECTION 75. SECTION 32B-8-401 IS AMENDED TO READ**

**32B-8-401 Specific operational requirements for resort license.**

- (1)
  - (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.
  - (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) the resort licensee;
    - (ii) individual staff of the resort licensee;



- (iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;
  - (iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or
  - (v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).
- (2)
- (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product except:
    - (i) on sublicensed premises;
    - (ii) pursuant to a permit issued under this title;
    - (iii) under a package agency ~~((agreement with the))~~ license issued by the department, subject to Chapter 2, Part 6, Package Agency License; or
    - (iv) through room service.
  - (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:
    - (i) if on a sublicense premises, in accordance with the operational requirements described in Section 32B-8d-104;
    - (ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit;
    - (iii) if as a package agency license, in accordance ~~((with the contract))~~ with the license issued by the department and Chapter 2, Part 6, Package Agency License; and
    - (iv) if through room service, in accordance with Subsection (5).
- (3) A resort licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of the resort licensee's sublicenses is from the sale of food, not including:
- (a) mix for an alcoholic product; and
  - (b) a charge in connection with the service of an alcoholic product.
- (4)
- (a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.
  - (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license shall complete the alcohol training and education seminar.
- (5)
- (a) Room service of an alcoholic product to a lodging accommodation of a resort licensee shall be provided in person by staff of the resort licensee only to an adult occupant in the lodging accommodation.
  - (b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

## **SECTION 76. SECTION 32B-8b-301 IS AMENDED TO READ**

### **32B-8b-301 Specific operational requirements for hotel license.**

- (1)
- (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.
  - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) the hotel licensee;
    - (ii) individual staff of the hotel licensee;
    - (iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;
    - (iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel

licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2)

(a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title;

(iii) under a package agency ~~((agreement))~~ license issued by ~~((with))~~ the department, subject to Chapter 2, Part 6, Package Agency License; or

(iv) through room service.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection

(2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit;

(iii) if as a package agency license, in accordance ~~((with the contract))~~ with the license issued by the department and Chapter 2, Part 6, Package Agency License; and

(iv) if through room service, in accordance with Subsection (4).

(c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(4)

(a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of the hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

## **SECTION 77. SECTION 32B-8c-301 IS AMENDED TO READ**

### **32B-8c-301 Specific operational requirements for arena license.**

(1)

(a) In addition to complying with Chapter 5, Part 3, Retail Licensing Operational Requirements, an arena licensee, staff of the arena licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

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

(i) the arena licensee;

(ii) individual staff of the arena licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the arena licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense; or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

(2)

- (a) An arena licensee may not sell, offer for sale, or furnish an alcoholic product except:
  - (i) on sublicensed premises;
  - (ii) pursuant to a permit issued under this title; or
  - (iii) under a package agency ~~((agreement))~~ license issued by ~~((with))~~ the department, subject to Chapter 2, Part 6, Package Agency License.
- (b) An arena licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:
  - (i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;
  - (ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and
  - (iii) if as a package agency license, in accordance ~~((with the contract))~~ with the license issued by the department and Chapter 2, Part 6, Package Agency License.
- (3) An arena licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food and beverages for the arena license and each of the arena license's sublicenses is from the sale of food, not including:
  - (a) mix for an alcoholic product; and
  - (b) a charge in connection with the service of an alcoholic product.
- (4) An arena licensee shall, directly or indirectly, supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under an arena license.

## **SECTION 78. SECTION 32B-9-305 IS AMENDED TO READ**

### **32B-9-305 Specific operational requirements for single event permit.**

- (1)
  - (a) In addition to complying with Section 32B-9-204, a single event permittee or a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event shall comply with this section.
  - (b) Failure to comply as provided in Subsection (1)(a):
    - (i) may result in:
      - (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
        - (I) a single event permittee;
        - (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event; or
        - (III) any combination of persons listed in this Subsection (1)(b);
      - (B) immediate revocation of the single event permit;
      - (C) forfeiture of a bond; or
      - (D) immediate seizure of an alcoholic product present at the event; and
    - (ii) if the single event permit is revoked, disqualifies the single event permittee from applying for a single event permit or temporary beer event permit for a period of three years from the date of revocation of the single event permit.
  - (c) An alcoholic product seized under this Subsection (1) shall be returned to the single event permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.
- (2)
  - (a) A single event permittee shall make and maintain an expense and revenue ledger or record showing:
    - (i) expenditures made for:
      - (A) liquor;
      - (B) beer;
      - (C) set-ups; and
      - (D) an ingredient or component of an alcoholic product other than a set-up; and

- (ii) the revenue from the sale of an alcoholic product.
- (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).
- (3) A single event permittee shall purchase wholesale liquor stored, sold, offered for sale, furnished, or consumed at an event from: ~~((a state store or package agency.))~~
  - (a) a state warehouse;
  - (b) a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act;
  - (c) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act; and
  - (d) beer, heavy beer, and flavored malt beverages from a beer wholesaler licensee; or
  - (e) beer, heavy beer, and flavored malt beverages from a small brewer.
- (4)
  - (a) A single event permittee may not sell, offer for sale, or furnish a primary spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional spirituous liquor may be used in a beverage if:
    - (i) used as a secondary flavoring ingredient;
    - (ii) used in conjunction with the primary spirituous liquor;
    - (iii) the secondary ingredient is not the only spirituous liquor in the beverage; and
    - (iv) subject to Subsection 32B-9-204(18):
      - (A) a patron has no more than 2.5 ounces of spirituous liquor at a time before the patron; and
      - (B) a patron has no more than one spirituous liquor drink at a time before the patron.
  - (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing system.
- (5)
  - (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or an individual portion, except that a glass or individual portion may not exceed five ounces.
  - (b) A single event permittee may furnish an individual portion served to a patron in more than one glass if the total amount of wine does not exceed five ounces.
  - (c) An individual portion of wine is considered to be one alcoholic product under Subsection 32B-9-204(18).
  - (d) A single event permittee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters, ~~((at a price fixed by the commission.))~~
- (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original container ~~((at a price fixed by the commission.))~~ except that the original container may not exceed one liter.
- (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage in an original container ~~((at a price fixed by the commission.))~~ except that the original container may not exceed one liter.
- ~~((8) A single event permittee may sell liquor only at a price fixed by the commission.))~~
- ~~((9))~~ (8) A single event permittee may perform a service and assess a service charge as authorized by commission rule for liquor purchased at an event.

## **SECTION 79. SECTION 32B-10-206 IS AMENDED TO READ**

### **32B-10-206 General operational requirements for special use permit.**

- (1)
  - (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.
  - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) a special use permittee;

- (ii) individual staff of a special use permittee; or
  - (iii) a special use permittee and staff of the special use permittee.
- (c) The commission may suspend or revoke a special use permit with or without cause.
- (2)
  - (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.
  - (b) Notwithstanding that this part may refer to “liquor” or an “alcoholic product,” a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.
  - (c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to “special use permittee,” a person involved in the purchase, use, storage, sale, offering for sale, allowing consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.
- (3)
  - (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.
  - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).
- (4)
  - (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from:  
~~((a state store or package agency.))~~
    - (i) a state warehouse; or
    - (ii) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act.
  - (b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee’s premises.
  - (c) A special use permittee shall purchase liquor at wholesale prices set by the commission~~((--))~~ from:
    - (i) a state warehouse; or
    - (ii) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act.
  - (d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.
  - (e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.
- (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee’s:
  - (a) application; or
  - (b) change of location request, as described in Section 32B-10-305, if:
    - (i) the special use permittee is a public service permittee; and
    - (ii) the commission approved the special use permittee’s change in location request.
- (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:
  - (a) a minor;
  - (b) a person actually, apparently, or obviously intoxicated;
  - (c) a known interdicted person; or
  - (d) a known habitual drunkard.
- (7) A special use permittee may not employ a minor to handle an alcoholic product.
- (8)
  - (a) The location specified in a special use permit may not be transferred from one location to another location, except as provided in Chapter 18, Part 3, Alcohol License Change of Location.

- (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not, except as provided in Chapter 18, Part 2, Alcohol License Changes of Ownership.
- (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.
- (10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:
- (a) physical facilities;
  - (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
  - (c) purchase, storage, and sales quantity limitations; and
  - (d) other matters considered appropriate by the commission.

## **SECTION 80. SECTION 32B-10-304 IS AMENDED TO READ**

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

- (1)
- (a) In addition to complying with Section 32B-10-206, a public service permittee and staff of the public service permittee shall comply with this section.
  - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) a public service permittee;
    - (ii) individual staff of a public service permittee; or
    - (iii) both a public service permittee and staff of the public service permittee.
- (2)
- (a) A public service permittee whose public conveyances operate on an interstate basis may do the following:
    - (i) purchase an alcoholic product outside of the state;
    - (ii) bring an alcoholic product purchased outside of the state into the state; and
    - (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance.
  - (b) A public service permittee whose public conveyance operates solely within the state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance, shall purchase liquor at wholesale pricing from:
    - (i) ~~((liquor from a state store or package agency; and))~~ a state warehouse; or
    - (ii) ~~((beer from a beer a beer wholesaler licensee.))~~ a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act; and
    - (iii) beer, heavy beer, or flavored malt beverages from a beer wholesaler licensee.
- (3)
- (a) A public service permittee may establish a hospitality room, if:
    - (i) the room is located within a depot, terminal, or similar facility adjacent to and servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;
    - (ii) the room is completely enclosed and the interior is not visible to the public;
    - (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a person:
      - (A) then in transit using the public service permittee's airline, railroad, bus line, or other public conveyance; and
      - (B) holding a valid boarding pass or similar travel document issued by the public service permittee; and
  - (iv)
    - (A) liquor is purchased at wholesale from:

(I) a state ~~((store; or))~~ warehouse; or

(II) ~~((a package agency; and))~~ a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act; and

(B) beer, heavy beer, or flavored malt beverages is purchased from a beer wholesaler licensee.

(b)

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

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

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

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

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

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

(ii)

(A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a different font style than the text described in Subsections (3)(b)(i)(D) and (E).

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

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

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

## **SECTION 81. SECTION 32B-10-603 IS AMENDED TO READ**

### **32B-10-603 Specific application requirements for religious wine use permit.**

(1) To purchase an alcoholic product from the department, or an off-premise retail licensee at the department's, or off-premise retail licensees' cost plus freight charges, a religious organization shall obtain a religious wine use permit.

(2) To obtain a religious wine permit, a person shall comply with Section 32B-10-202.

(3) The one-time special use permit fee for a religious wine use permit is \$125.

## **SECTION 82. SECTION 32B-10-604 IS AMENDED TO READ**

### **32B-10-604 Specific operational requirements for religious wine use permit.**

(1)

(a) In addition to complying with Section 32B-10-206, a religious wine permittee and staff of the religious wine permittee shall comply with this section.

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

(i) a religious wine permittee;

(ii) individual staff of a religious wine permittee; or

(iii) a religious wine permittee and staff of the religious wine permittee.

(2) A religious wine use permittee may purchase wine from a state ~~((store))~~ warehouse as the department may designate at the department's cost plus freight charges, ~~((--))~~ or from an off-premise retail licensee at cost plus freight charges.

(3) A religious wine use permittee may not use wine purchased under a religious wine use permit for a purpose other than a religious purpose.

**SECTION 83. SECTION 32B-11-201 IS AMENDED TO READ**

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

(1)

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

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

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

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

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

(a) a winery manufacturing license;

(b) a distillery manufacturing license; and

(c) a brewery manufacturing license.

(4)

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

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

(i) beer, heavy beer, or flavored malt beverages to a beer wholesaler licensee or military installation in this state; or

~~((ii) a flavored malt beverage to:))~~

~~((A) the department; or))~~

~~((B) a military installation; or))~~

~~((iii))~~ (ii) if a small brewer, beer, heavy beer, or flavored malt beverages to one of the following in the state:

(A) a beer wholesaler licensee;

(B) ~~((a beer retailer; or))~~ a military installation;

(C) ~~((an event permittee))~~ a licensee; and

~~((B))~~ (D) beer to a beer retailer; ~~((or))~~

~~((C))~~ (E) an event permittee.

(c) To obtain a certificate of approval, a brewer shall submit to the department:

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

(ii) a nonrefundable \$75 application fee;

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

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

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

(d)

(i) One of the following shall sign and verify a written application under this Subsection (4) by oath or affirmation:

(A) a partner if the brewer is a partnership; or

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

(ii) A brewer filing an application shall attach to the application written evidence of the authority of the person described in Subsection (4)(d)(i) to sign the application.

(e)



- (i) A certificate of approval under this Subsection (4) expires on December 31 of each year.
- (ii) A brewer desiring to renew its certificate of approval shall submit to the department by no later than November 30 of the year the certificate of approval expires:

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

(B) a renewal fee of \$250~~((-))~~ ; and

(C) a previous fiscal year sales report listing all products by item sold to a beer wholesaler or military installation including:

(I) the beer wholesaler's or military installation's name;

(II) address;

(III) phone number;

(IV) email contact;

(V) detailed product information;

(VI) the price and quantity of the products;

(VII) separate columns listing 30% tax markup on heavy beer or flavored malt beverages sold directly to a beer wholesaler and remitted to the department;

(VIII) a column listing 17% tax markup on heavy beer or flavored malt beverages sold directly to military installations and remitted to the department; and

- (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the certificate of approval effective on the date the existing certificate of approval expires.

(5)

- (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is not required to be licensed under this title shall obtain a certificate of approval from the department before selling or delivering:

(i) beer, heavy beer, or a flavored malt beverage to a beer wholesaler licensee or military installation in this state. ~~((; or))~~

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

~~((((A) the department; or))~~

~~((((B) a military installation.))~~

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

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

(ii) a nonrefundable \$75 application fee;

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

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

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

(c)

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

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

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

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

(d)

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

- (ii) An importer or supplier desiring to renew its certificate of approval shall submit to the department by no later than November 30 of the year the certificate of approval expires:

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

(B) a renewal fee of \$250~~((-))~~ ; and

(C) a previous fiscal year sales report listing all products by item sold to a beer wholesaler or military installation including:

(I) the beer wholesaler or military installation's name;

(II) address;

(III) phone number;

(IV) email contact;

(V) detailed product information;

(VI) the price and quantity of the products; and

(VII) separate columns listing 30% tax markup on heavy beer and flavored malt beverages sold directly to beer wholesalers and remitted to the department; and

(VIII) a column listing 17% tax markup on heavy beer or flavored malt beverages sold directly to military installations and remitted to the department.

(iii) Failure to meet the renewal requirements results in an automatic forfeiture of the certificate of approval effective on the date the existing certificate of approval expires.

(e) A brewer, importer or supplier described in Subsections (4)(a) and (5)(a) shall remit the tax markup on heavy beer and flavored malt beverages to the department in a timeframe and manner prescribed by the department.

(f) A brewer, importer or supplier described in Subsections (4)(a) and (5)(a) shall maintain records of the sale of heavy beer and flavored malt beverages to a beer wholesaler or military installation in a manner prescribed by the department for:

(i) a period of three years; and

(ii) make available for audit or inspection by the department within a time prescribed by the department.

(6)

(a) Subject to Subsection (7), a brewer, importer, or supplier required to hold a certificate of approval under this section may not distribute beer, heavy beer, or flavored malt beverages in this state except under a written agreement with a beer wholesaler licensee in this state.

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

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

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

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

(c) A brewer, importer of beer, heavy beer, or flavored malt beverages or supplier of beer, heavy beer, or flavored malt beverages may have more than one agreement described in this Subsection (6) if each brand of the brewer, importer, or supplier distributed in the state is covered by one exclusive sales territory.

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

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

## **SECTION 84. SECTION 32B-11-204 IS AMENDED TO READ**

### **32B-11-204 Renewal requirements for a manufacturing license.**

(1) A manufacturing license expires on December 31 of each year.

(2) To renew a manufacturing license, a person shall submit by no later than November 30 of the year the license expires:

(a) a completed renewal application to the department, in a form prescribed by the department; and

(b) a renewal fee in the following amount of:

- (i) \$2,900. , ~~((except for a wine manufacturing license described in Subsection (2)(b)(ii); or))~~
- ~~((ii) \$1,400 for a winery manufacturing license if the winery manufacturing licensee produces less than 20,000 gallons of wine in the calendar year preceding the year in which the manufacturing licensee seeks renewal.))~~

(c) A signed consent form stating that the manufacturing licensee will:

- (i) charge 30% markup on spirituous liquor, wine, heavy beer, or flavored malt beverages sold directly to a licensee or permittee, and remit the markup to the state in a timeframe and manner prescribed by the department;
- (ii) charge 17% markup above the price of spirituous liquor, wine, heavy beer or flavored malt beverages sold directly to a military installation, and remit the markup to the state in a timeframe and manner prescribe by the department;
- (iii) provide a sales list of licensees, military installations, or permittees to which the manufacturing licensee has sold spirituous liquor, wine, beer, heavy beer, or flavored malt beverages directly to during the previous running three-year period.

(d) The sales list detailed information must include:

- (i) the licensee, military installation or permittees name;
- (ii) address;
- (iii) phone number;
- (iv) email contact;
- (v) detailed information of spirituous liquor, wine, beer, heavy beer, or flavored malt beverages including exact quantities;
- (vi) the exact price of spirituous liquor, wine, beer, heavy beer, or flavored malt beverages directly sold to the licensee, military installation or permittee; and
- (vii) separate columns listing the tax markup remitted to the department.

(3) Any other information that the commission or department may require.

~~(((3)))~~ (4) Failure to meet the renewal requirements results in an automatic forfeiture of a manufacturing license effective on the date the existing manufacturing license expires.

## **SECTION 85. SECTION 32B-11-208 IS AMENDED TO READ**

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

(1)

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

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

- (i) a manufacturing licensee;
- (ii) individual staff of a manufacturing licensee; or
- (iii) a manufacturing licensee and staff of the manufacturing licensee.

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

(3)

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

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

(4) A manufacturing licensee may not sell spirituous liquor, wine, heavy beer, or flavored malt beverages within the state except to:

- (a) the department; ~~((or))~~

- (b) a military installation~~((-))~~;
- (c) an off-premise retail licensee;
- (d) an on-premise retail licensee; or
- (e) a permittee.

(5) A manufacturing license may not be transferred from one location to another location, except as provided in Chapter 18, Part 3, Alcohol License Change of Location.

(6)

(a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in Chapter 18, Part 2, Alcohol License Changes of Ownership.

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

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

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

(a) for sale; or

(b) in the course of manufacture for sale in this state.

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

(a) physical facilities;

(b) conditions of storage, sale, or manufacture of an alcoholic product;

(c) storage and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

(10) A manufacturer licensee described in Subsection (4) may only sell spirituous liquor and wine directly to a licensee, military installation or permittee that is not listed and sold by the department in direct competition.

## **SECTION 86. SECTION 32B-11-210 IS AMENDED TO READ**

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

(1) As used in this section:

(a) "Parcel" means the same identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.

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

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

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

(a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the manufacturing licensee were ~~((a))~~ an on-premise retail licensee;

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

(i) consumption area; and

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

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

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

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

- (4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day during the period that:
- (a) begins at midnight; and
  - (b) ends at 10:59 a.m.
- (5) A person who serves a taste on behalf of the manufacturing licensee shall complete an alcohol training and education seminar as if the person were employed by ~~((a))~~ an on-premise retail licensee.
- (6)
- (a) A manufacturing licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed during the time period when tasting occurs.
  - (b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the manufacturing licensee produces alcoholic product, in a building on the same parcel as the building where the manufacturing licensee produces alcoholic product, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).
- (7)
- (a) A manufacturing licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.
  - (b) The commission may define what constitutes “substantial food” by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.
- (8) A manufacturing licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.
- (9)
- (a) A manufacturing licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:
    - (i) for a winery manufacturing licensee:
      - (A) except as provided in Subsection (9)(a)(i)(B), five ounces of wine; or
      - (B) 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;
    - (ii) for a distillery manufacturing licensee, 2.5 ounces of spirituous liquor; or
    - (iii) for a brewery manufacturing licensee, 16 ounces of beer, heavy beer, or flavored malt beverages.
  - (b) A manufacturing licensee may not allow an individual to participate in more than one tasting within a calendar day.
- (10) A manufacturing licensee may provide a taste of alcoholic product that is:
- (a) manufactured by the manufacturing licensee; or ~~((and))~~
  - (b) purchased by the manufacturing licensee from:
    - (i) a state ~~((store))~~ warehouse or off-premise licensee ~~((or package agency))~~; or
    - (ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).
- (11)
- (a) A manufacturing licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:
    - (i) a header that reads: “WARNING”;
    - (ii) a warning statement that reads: “Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.”;
    - (iii) a statement in smaller font that reads: “Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.”;
    - (iv) a header that reads: “WARNING”; and
    - (v) a warning statement that reads: “Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”
  - (b)

- (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).
  - (ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.
  - (c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).
- (12) A manufacturing licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.
- (13) A manufacturing licensee that conducts tastings under a scientific or educational use permit issued by the commission as of May 10, 2016, shall comply with this section by no later than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-206(1)(c), effective no later than January 1, 2017, the commission shall take action on a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

## **SECTION 87. SECTION 32B-11-303 IS AMENDED TO READ**

### **32B-11-303 Specific authority and operational requirements for winery manufacturing license.**

- (1) A winery manufacturing license allows a winery manufacturing licensee to:
- (a) store, manufacture, transport, import, or export wine;
  - (b) sell wine ~~((at wholesale))~~ to:
    - (i) the department; ~~((and))~~
    - (ii) ~~((an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits;))~~ a military installation;
    - (iii) an off-premise retail licensee;
    - (iv) an on-premise retail licensee;
    - (v) a permittee; and
    - ~~(((iii)))~~ (vi) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits;
  - (c) purchase liquor for fortifying wine, if the department is notified of the purchase and date of delivery; and
  - (d) warehouse on the licensed premises liquor that is manufactured or purchased for manufacturing purposes.
- (2)
- (a) A wine, brandy, wine spirit, or other liquor imported under authority of a winery manufacturing license shall conform to the standards of identity and quality established in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.
  - (b) The federal definitions, standards of identity, and quality and labeling requirements for wine, in regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with the laws of this state.
- (3) If considered necessary, the commission or department may require:
- (a) the alteration of the plant, equipment, or licensed premises;
  - (b) the alteration or removal of unsuitable wine-making equipment or material;
  - (c) a winery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and wine-making equipment;
  - (d) that a marc, pomace, or fruit be destroyed, denatured, or removed from the licensed premises because it is considered:
    - (i) unfit for wine making; or
    - (ii) as producing or likely to produce an unsanitary condition;
  - (e) a winery manufacturing licensee to distill or cause to be distilled or disposed of under the department's supervision:

- (i) any unsound, poor quality finished wine; or
  - (ii) unfinished wine that will not be satisfactory when finished; or
  - (f) that a record pertaining to the grapes and other materials and ingredients used in the manufacture of wine be available to the commission or department upon request.
- (4) A winery manufacturing licensee may not permit wine to be consumed on the winery manufacturing licensee's premises, except that:
- (a) a winery manufacturing licensee may allow the winery manufacturing licensee's on-duty staff to taste on the licensed premises the alcoholic product that the winery manufacturing licensee manufactures on the winery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;
  - (b) a winery manufacturing licensee may allow a person who can lawfully purchase wine for wholesale or retail distribution to consume a bona fide sample of the winery manufacturing licensee's product on the licensed premises; and
  - (c) a winery manufacturing licensee may conduct a tasting as provided in Section 32B-11-210.

## **SECTION 88. SECTION 32B-11-403 IS AMENDED TO READ**

### **32B-11-403 Specific authority and operational requirements for distillery manufacturing license.**

- (1) A distillery manufacturing license allows a distillery manufacturing licensee to:
- (a) store, manufacture, transport, import, or export liquor;
  - (b) sell liquor to:
    - (i) the department;
    - ~~(ii) ((an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits; and))~~ a military installation;
    - ~~(iii) ((as provided in Subsection (2);))~~ an off-premise retail licensee;
    - ~~(iv) an on-premise retail licensee;~~
    - ~~(v) a permittee; and~~
    - ~~((ii))~~ (vi) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits; and
    - ~~((iii))~~ (vii) as provided in Subsection (2);
  - (c) purchase an alcoholic product for mixing and manufacturing purposes if the department is notified of:
    - (i) the purchase; and
    - (ii) the date of delivery;
  - (d) warehouse on the distillery manufacturing licensee's licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes;
  - (e) if the distillery manufacturing licensee holds two or more distillery manufacturing licenses under this chapter, transport an alcoholic product from one of the distillery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:
    - (i) continuing or completing the manufacturing process; or
    - (ii) storing a bulk container or an alcoholic product that is distilled and packaged in the state, including the transport of an alcoholic product to a package agency license located at any of the distillery manufacturing licensee's licensed premises; and
  - (f) receive samples of an alcoholic product from a person outside the state for the sole purpose of performing tests and analysis, if the distillery manufacturing licensee:
    - (i) performs the tests and analysis in accordance with 27 C.F.R. Secs. 19.434(a), (c), (d), (e), and (f), Secs. 19.435 through 19.437, and Sec. 19.616;
    - (ii) keeps records of the samples received, including:
      - (A) all data required under 27 C.F.R. Sec. 19.616;
      - (B) a description of the sample; and

- (C) the date the distillery manufacturing licensee receives the sample; and
  - (iii) upon request, provides the records described in Subsection (1)(f)(ii) to the department.
- (2)
- (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:
    - (i) a mechanical or industrial business that requires the use of an alcoholic product; or
    - (ii) scientific pursuits that require the use of an alcoholic product.
  - (b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.
  - (c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.
  - (d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.
- (3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with laws of this state.
- (4) If considered necessary, the commission or department may require:
- (a) the alteration of the plant, equipment, or licensed premises;
  - (b) the alteration or removal of unsuitable alcoholic product-making equipment or material;
  - (c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or
  - (d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be made available to the commission or department upon request.
- (5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on the distillery manufacturing licensee's premises, except that:
- (a) a distillery manufacturing licensee may allow the distillery manufacturing licensee's on-duty staff to taste on the licensed premises an alcoholic product that the distillery manufacturing licensee manufactures on the distillery manufacturing licensee's licensed premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;
  - (b) a distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises; and
  - (c) a distillery manufacturing licensee may conduct a tasting as provided in Section 32B-11-210.

## **SECTION 89. SECTION 32B-11-503 IS AMENDED TO READ**

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

- (1) A brewery manufacturing license allows a brewery manufacturing licensee to:
- (a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;
  - (b) sell beer, heavy beer, and a flavored malt beverage to:
    - ~~(i) a beer wholesaler; ((the department;))~~
    - (ii) a military installation; or
    - (iii) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits; or~~(((c) sell beer to a beer wholesaler licensee;))~~
~~(((d)))~~ (c) in the case of a small brewer, in accordance with Subsection (5), sell beer, heavy beer, or flavored malt beverages manufactured by the small brewer to:



- (i) a retail licensee;
- (ii) ~~((an off-premise beer retailer))~~ a beer wholesaler licensee;
- (iii) ~~((and event permittee))~~ a military installation; or
- (iv) beer to an off-premise beer retailer; or
- (v) beer to an event permittee;
- ~~((e))~~ (d) warehouse on the brewery manufacturing licensee's premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes; and
- ~~((f))~~ (e) if the brewery manufacturing licensee holds two or more brewery manufacturing licenses, transport beer, heavy beer, or flavored malt beverage from one of the brewery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:
  - (i) continuing or completing the manufacturing process; or
  - (ii) transferring the beer, heavy beer, or flavored malt beverage for storage at a licensed premises of the brewery manufacturing licensee that is at a package agency license.
- (2) A brewery manufacturing licensee may not sell the following to a person within the state except ~~((the department))~~ a beer wholesaler or a military installation:
  - (a) heavy beer; or
  - (b) a flavored malt beverage.
- (3) If considered necessary, the commission or department may require:
  - (a) the alteration of the plant, equipment, or licensed premises;
  - (b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;
  - (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or
  - (d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.
- (4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except that:
  - (a) a brewery manufacturing licensee may allow the brewery manufacturing licensee's on-duty staff to taste the alcoholic product that the brewery manufacturing licensee manufactures on the brewery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;
  - (b) a brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:
    - (i) beer;
    - (ii) heavy beer; or
    - (iii) a flavored malt beverage;
  - (c) a brewery manufacturing licensee may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; and
  - (d) a brewery manufacturing licensee may conduct a tasting as provided in Section 32B-11-210.
- (5)
  - (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer, heavy beer, or flavored malt beverages to be sold to a person described in Subsection ~~((1)(d))~~ (1)(c) if the small brewer:
    - (i)
      - (A)
        - (I) is located in this state; and
        - (II) holds a brewery manufacturing license; or
      - (B)
        - (I) is located outside this state; and

- (II) holds a certificate of approval to sell beer, heavy beer, or flavored malt beverages in this state; and
- (ii) sells beer, heavy beer, or flavored malt beverages manufactured by the small brewer directly to a person described in Subsection ~~(((1)(d)))~~ (1)(c).
- (b) A small brewer may not sell beer, heavy beer, or flavored malt beverages to a person described in Subsection ~~(((1)(d)))~~ (1)(c) unless the beer, heavy beer, or flavored malt beverages:
  - (i) is manufactured by the small brewer; and
  - (ii) is first placed in the small brewer's warehouse facility in this state.
- (c)
  - (i) A small brewer warehouse shall make and maintain complete beer, heavy beer, or flavored malt beverages importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.
  - (ii) The records described in Subsection (5)(c)(i) are subject to inspection by:
    - (A) the department; and
    - (B) the State Tax Commission.
  - (iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.
- (6)
  - (a) Subject to Subsection (7), a brewery manufacturing licensee may not sell beer, heavy beer, or flavored malt beverages in this state except under a written agreement with a beer wholesaler licensee in this state.
  - (b) An agreement described in Subsection (6)(a) shall:
    - (i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;
    - (ii) designate the one or more brands that may be distributed in the sales territory; and
    - (iii) set forth the exact geographical area of the sales territory.
  - (c) A brewery manufacturing licensee may have more than one agreement described in Subsection (6)(a) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.
  - (d) A brewery manufacturing licensee may not enter into an agreement described in Subsection (6)(a) with more than one beer wholesaler licensee to distribute the same brand of beer, heavy beer, or flavored malt beverages in the same sales territory or any portion of the sales territory.
- (7) A small brewer is not subject to the requirements of Subsection (6).

## **SECTION 90. SECTION 32B-11-504 IS AMENDED TO READ**

### **32B-11-504 Department's authority regarding small-brewer status.**

- (1) A brewer seeking to obtain small-brewer status shall provide to the department any documentation or information the department determines necessary to determine if the brewer is part of a controlled group of manufacturers.
- ~~(2) ((The department may revoke a brewer's small-brewer status at any time, if the department determines the brewer does not qualify as a small brewer.))~~ Verify that a manufacturer meets a production amount described in Subsection 32B-1-102, (124), and the production amount of a small brewer pursuant to a federal or other verifiable production report.
- (3) Small brewer status does not require distribution through a licensed beer wholesaler in this state.
- ~~(((2)))~~ (4) The department may revoke a brewer's small-brewer status at any time, if the department determines the brewer does not qualify as a small brewer.

## **SECTION 91. SECTION 32B-11-603 IS AMENDED TO READ**

**32B-11-603 Commission's power to issue local industry representative license.**

- (1)
- (a) Before a person described in Subsection (2) may represent an alcoholic product of a manufacturer, supplier, or importer, the person shall obtain a local industry representative license from the commission in accordance with this part.
- (b) A violation of this Subsection (1) is a class B misdemeanor.
- (2) The commission may issue a local industry representative license to a person who is:
- (a)
- (i) an individual resident of Utah;
- (ii) a Utah partnership;
- (iii) a Utah corporation; or
- (iv) a Utah limited liability company; and
- (b) employed by a manufacturer, supplier, or importer, to represent a liquor product with the department, ~~((a package agency,))~~ licensee, or permittee under this title, whether compensated by salary, commission, or another means.
- (3) An individual staff member of a local industry representative licensee is not required to be separately licensed.
- (4) A local industry representative may represent more than one manufacturer, supplier, or importer at a time.
- (5)
- (a) A manufacturer, supplier, or importer is not required to use a local industry representative to represent its products with the department, ~~((a package agency,))~~ licensee, or permittee, except that staff of a manufacturer, supplier, or importer who is not a local industry representative shall register with the department, on a form provided by the department, before the staff represents an alcoholic product while in the state with the department, ~~((a package agency,))~~ licensee, or permittee.
- (b) A manufacturer, supplier, or importer described in Subsection (5)(a) and its staff are subject to the same operational requirements of this part and Chapter 4, Criminal Offenses and Procedure Act.

**SECTION 92. SECTION 32B-11-608 IS AMENDED TO READ**

**32B-11-608 Operational requirements for local industry representative license.**

- (1)
- (a) A local industry representative licensee, staff of the local industry representative licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the state, shall comply with this title and rules of the commission.
- (b) If a person knowingly violates Subsection (1)(a):
- (i) the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- (A) a local industry representative licensee;
- (B) individual staff of a local industry representative licensee; or
- (C) both a local industry representative licensee and staff of the local industry representative licensee; and
- (ii) if the conditions of Subsection (1)(c) are met, the commission may order:
- (A) the removal of the manufacturer's, supplier's, or importer's products from the department's sales list; and
- (B) a suspension of the department's purchase of those products for a period determined by the commission.
- (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:

- (i) directly commits the violation; or
  - (ii) solicits, requests, commands, encourages, or intentionally aides another to engage in the violation.
- (2) A local industry representative licensee shall display its license in the local industry representative licensee's principal place of business.
- (3)
  - (a) A local industry representative licensee shall maintain on file with the department a current accounts list of the names and addresses of the manufacturers, suppliers, and importers the local industry representative licensee represents.
  - (b) A local industry representative licensee shall notify the department in writing of a change to its accounts list within 14 days from the date the local industry representative licensee:
    - (i) acquires the account of a manufacturer, supplier, or importer; or
    - (ii) loses the account of a manufacturer, supplier, or importer.
- (4)
  - (a) A local industry representative licensee shall make and maintain the records the department requires for at least three years.
  - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).
- (5) Staff of a local industry representative licensee may not be:
  - (a) a retail licensee that sells, offers for sale, or furnishes liquor;
  - (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or
  - (c) a minor.
- (6)
  - (a) A local representative licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.
  - (b) A local industry representative license has no monetary value for any type of disposition.
- (7) A local industry representative licensee, staff of the local industry representative licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the state:
  - (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act, may:
    - (i) assist the department, licensees, military installations, and permittees in:
      - (A) ordering, shipping, and delivering merchandise;
      - (B) providing new product notification;
      - (C) obtaining listing and delisting information;
      - (D) receiving price quotations;
      - (E) providing product sales analysis;
      - (F) conducting shelf management; and
      - (G) conducting educational seminars; and
    - (ii) to acquire new listings:
      - (A) solicit orders from the department; and
      - (B) submit to the department price lists and samples of the products of the manufacturer, supplier, or importer;
  - (b) may not sell liquor within the state except to:
    - (i) the department; ~~((and))~~
    - (ii) a military installation;
    - (iii) an off-premise retail licensee;
    - (iv) an on-premise retail licensee; or
    - (v) a permittee.
  - (c) may not ship or transport, or cause to be shipped or transported, liquor into this state or from one place to another within this state;
  - (d) may not sell or furnish any liquor to any person within this state other than to:

- (i) the department; ~~((or))~~
- (ii) a military installation;
- (iii) an off-premise retail licensee;
- (iv) an on-premise retail licensee; or
- (v) a permittee.

(e) except as otherwise provided, may not advertise a product the local industry representative licensee represents in violation of this title or any other federal or state law;

(f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices Act; and

(g) may only provide a sample of a product of the manufacturer, supplier, or importer for tasting and sampling purposes as provided in Subsections (8)(j), (8)(k), and (8)(l). ~~((Section 32B-4-705 by the department.))~~

(8) A local industry representative licensee may, to become educated as to the quality and characteristics of a liquor that the licensee represents, taste and analyze an industry representative sample under the conditions listed in this Subsection (8).

(a) A local industry representative licensee may not receive more than two industry representative samples of a particular type, vintage, and production lot of a particular branded product within a consecutive 120-day period.

(b)

(i) An industry representative sample of liquor may not exceed one liter.

(ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the following may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters:

(A) wine;

(B) heavy beer; or

(C) a flavored malt beverage.

(c) An industry representative sample for the department may only be of a product not presently listed on the department's sales list.

(d)

(i) An industry representative sample shall be shipped:

(A) prepaid by the manufacturer, supplier, or importer;

(B) by common carrier and not via United States mail; and

(C) directly to the department's central administrative warehouse office.

(ii) An industry representative sample may not be shipped to any other location within the state.

(e) An industry representative sample shall be accompanied by a letter from the manufacturer, supplier, or importer:

(i) clearly identifying the product as an "industry representative sample"; and

(ii) clearly stating:

(A) the FOB case price of the product; ~~((and))~~

(B) the name of the local industry representative for whom it is intended ~~((and))~~ ; and

(C) state whether the sample is for a listing presentation with the department or samples for a local industry member.

(f) The department shall assess a reasonable handling, labeling, and storage fee for each industry representative sample received.

(g) The department shall affix to a container a label clearly identifying the product as an "industry representative sample."

(h) The department shall:

(i) account for and record each industry representative sample received;

(ii) account for the industry representative sample's disposition; and

(iii) maintain a record of the industry representative sample and its disposition for a two-year period.

- (i) An industry representative sample used to educate licensees, military installations, and permittees as to the typicity, quality, and characteristics of the sample, ~~((may not leave the premises of the department's central administrative warehouse office.))~~ may be picked up at one of the state warehouses designated by an industry representative after a reasonable handling, labeling, and storage fee has been assessed and paid for by the industry representative.
- (j) A local industry representative licensee's and a local industry representative licensee's staff may: ~~((at regularly scheduled days and times established by the department, taste and analyze one or more industry representative samples on the premises of the department's central administrative warehouse office.))~~
- (i) provide owner(s) or designated managers of a licensee, military installation, or permittee a taste of no more than five wines (in one-ounce increments and not to exceed 5 ounces total), for educational purposes as to the typicity, quality, and characteristics to determine if the product is suitable for their specific alcoholic beverage program;
- (ii) only sample wine with a licensee, military installation, or permittee who has not purchased a particular brand during the previous 12-month period;
- (iii) not leave leftover sampled wine at a licensee, military installation, or permittees establishment;
- (iv) not consume during the sampling educational process at more than one tasting meeting before 12 p.m. or one tasting meeting between 3 p.m. and 5 p.m.; and
- (A) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which wine samples are tasted before 12 p.m.;
- (B) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which wine samples are tasted between the hours of 3 p.m. and 5 p.m.
- (v) use a wine sample on more than one day until the product is depleted; and
- (vi) take recorked leftover sampled wine used for educational purposes to their place of business or personal residence.
- (k) A local industry representative licensee and a local industry representative licensee's staff may:
- (i) provide owner(s) or designated managers of a licensee, military installation, or permittee a taste of no more than 3 spirituous liquors (in .5 ounce increments and not to exceed 1.5 ounces total), for educational purposes as to the typicity, quality, and characteristics to determine if the product is suitable for their specific alcoholic beverage program;
- (ii) only sample spirituous liquor with a licensee, military installation, or permittee who has not purchased a particular brand during the previous 12 month period;
- (iii) not leave leftover sampled spirituous liquor at a licensee, military installation, or permittees establishment;
- (iv) not consume during the sampling educational process at more than one tasting meeting before 12 p.m. or one tasting meeting between 3 p.m. and 5 p.m.; and
- (A) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which spirituous liquor samples are tasted before 12 p.m.;
- (B) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which spirituous liquor samples are tasted between the hours of 3 p.m. and 5 p.m.
- (v) use a spirituous liquor sample on more than one day until depleted; and
- (vi) take resealed leftover sampled spirituous liquor used for educational purposes to their place of business or personal residence.
- (l) A local industry representative licensee and a local industry representative licensee's staff may:
- (i) provide owner(s) or designated managers of a licensee, military installation, or permittee a taste of no more than 5 heavy beers or flavored malt beverages (in one-ounce increments and not to exceed five ounces total), for educational purposes as to the typicity, quality, and characteristics of a heavy beer or flavored malt beverage in determining if the product is suitable for their specific alcoholic beverage program.

- (ii) only sample heavy beer or flavored malt beverages with a licensee, military installation, or permittee who has not purchased a particular brand during the previous 12-month period;
- (iii) not leave leftover sampled heavy beer or flavored malt beverages at a licensee, military installation, or permittees establishment;
- (iv) not consume during the sampling educational process at more than one tasting meeting before 12 p.m. or one tasting meeting between 3 p.m. and 5 p.m.; and
  - (A) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which heavy beer or flavored malt beverage samples are tasted before 12 p.m.;
  - (B) a licensee, military installation, or permittee may not have more than one meeting with an industry representative in which heavy beer or flavored malt beverage samples are tasted between the hours of 3 p.m. and 5 p.m.
- (v) use a heavy beer or flavored malt beverage sample on more than one day until depleted; and
- (vi) take resealed leftover sampled heavy beer or flavored malt beverages used for educational purposes to their place of business or personal residence.
- ~~(((k)))~~ (m) The department shall destroy the unused contents of an opened product remaining after a product is sampled under controlled and audited conditions established by the department.
- ~~(((l)))~~ (n) An industry representative sample that is not tasted within 30 days of receipt by the department shall be disposed of at the discretion of the department in one of the following ways:
  - (i) the contents destroyed under controlled and audited conditions established by the department; or
  - (ii) added to the inventory of the department for sale to the public.
- (o) A local industry representative may purchase liquor samples of products listed and carried by the department at wholesale only for the purpose of educational sampling as outlined in Subsection (8).

#### **SECTION 93. SECTION 32B-12-204 IS AMENDED TO READ**

##### **32B-12-204 Specific qualifications for liquor warehousing license.**

- (1) The commission may not issue a liquor warehousing license to a person who is disqualified under Section 32B-1-304.
- (2) A person, through its staff, or otherwise, either directly or indirectly, may not hold at the same time both a liquor warehousing license and another kind of ~~((package agency,))~~ license, or permit issued under this title except:
  - (a) a temporary beer event permit;
  - (b) a manufacturing license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act; or
  - (c) a beer wholesaling license issued in accordance with this chapter.
- (3) If a person to whom a liquor warehousing license is issued under this chapter no longer possesses the qualifications required by this title for obtaining that liquor warehousing license, the commission may suspend or revoke that liquor warehousing license.

#### **SECTION 94. SECTION 32B-12-301 IS AMENDED TO READ**

##### **32B-12-301 General operational requirements for liquor warehousing license.**

- (1)
  - (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall comply with this title and the rules of the commission.
  - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) a liquor warehouser licensee;
    - (ii) individual staff of a liquor warehouser licensee; or

- (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.
- (2)
  - (a) A liquor warehouser licensee shall make and maintain records required by the department.
  - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).
- (3) A liquor warehousing license may not be transferred from one location to another location, without prior written approval of the commission.
- (4)
  - (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.
  - (b) A liquor warehousing license has no monetary value for any type of disposition.
- (5) A liquor warehouser licensee may not employ a minor to handle an alcoholic product.
- (6) Liquor that is warehoused in this state and sold to an out-of-state consignee may be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.
- (7) Liquor that is warehoused in this state and sold to the department, a military installation, licensee, or permittee may be transported only by a motor carrier approved by the department.
- (8) Liquor transported to or from a liquor warehouser licensee's licensed premises shall be carried in a sealed conveyance that is made available for inspection by the department while en route within the state.
- (9) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor from a warehouse in less than a full case lot.
- (10) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled.
- (11) A liquor warehouser licensee may not receive, warehouse, distribute, transport, ship, or convey liquor that the commission has not authorized the liquor warehouser licensee to handle through its warehouse.
- (12) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of licensees relating to:
  - (a) physical facilities;
  - (b) conditions of storage, distribution, or transport of liquor; and
  - (c) other matters considered appropriate by the commission.

## **SECTION 95. SECTION 32B-13-201 IS AMENDED TO READ**

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

- (1)
  - (a) Before a person may purchase, store, sell, offer for sale, distribute, or import beer, heavy beer, or flavored malt beverages to a person who sells at retail or acts in any way as a beer wholesaler, the person shall first obtain a beer wholesaling license issued by the commission in accordance with this chapter.
  - (b) A violation of Subsection (1)(a) is a class A misdemeanor.
- (2)
  - (a) The commission may issue a beer wholesaling license for the purchase, storage, sale, distribution, transportation, and import of beer, heavy beer, or flavored malt beverages.
  - (b) A beer wholesaling license entitles the beer wholesaler licensee to:
    - (i) purchase and import beer, heavy beer, or flavored malt beverages into the state;
    - (ii) store beer, heavy beer, or flavored malt beverages in an approved warehouse; and
    - (iii) sell and distribute beer directly to:
      - (A) a beer retailer; or
      - (B) an event permittee~~(( ))~~; or
    - (iv) sell and distribute beer, heavy beer, or flavored malt beverages directly to:



(A) an off-premise retail licensee or on-premise retail licensee; or

(B) a military installation;

(3) Nothing in this section precludes a small brewer from selling beer, heavy beer, or flavored malt beverages the small brewer manufactures directly to:

(a) ~~((a))~~ an off-premise retail licensee or on-premise retail licensee;

~~((b))~~ (b) ~~((an off-premise beer retailer; or))~~ a military installation; or

~~((b))~~ (c) ~~((an event permittee.))~~ beer to an off-premise beer retailer; or

~~((c))~~ (d) beer to an event permittee.

## **SECTION 96. SECTION 32B-13-202 IS AMENDED TO READ**

### **32B-13-202 Application requirements for beer wholesaling license.**

To obtain a beer wholesaling license, a person shall submit to the department:

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

(2) a nonrefundable \$300 application fee;

(3) an initial license fee of \$2,300 that is refundable if a beer wholesaling license is not issued;

(4) written consent of the local authority;

(5) a copy of the person's current business license;

(6) a bond as specified in Section 32B-13-206;

(7) a statement of the brands of beer, heavy beer, or flavored malt beverages the person is authorized to sell and distribute;

(8) a statement of the one or more sales territories in which the person is authorized to sell and distribute beer, heavy beer, or flavored malt beverages under an agreement required by Section 32B-11-201 or 32B-11-503;

(9) evidence that the person is carrying public liability insurance in an amount and form satisfactory to the department;

(10) a signed consent form stating that the beer wholesaling licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the licensed premises;

(11) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(12) any other information that the commission or department may require.

## **SECTION 97. SECTION 32B-13-301 IS AMENDED TO READ**

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

(1)

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

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

(i) a beer wholesaler licensee;

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

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

(2)

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

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

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

- (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary gain or not, unless it is done:
- (a) in accordance with the commission rules; and
  - (b) after written consent is given by the commission.
- (5) A beer wholesaler licensee may not wholesale a beer, heavy beer, or flavored malt beverage manufactured within the state by a brewer who is not licensed by the commission as a brewery manufacturing licensee.
- (6) A beer wholesaler licensee may not wholesale a beer, heavy beer, or flavored malt beverage manufactured out of state by a brewer who has not obtained a certificate of approval from the department.
- (7)
- (a) A beer wholesaler licensee may not sell or distribute beer, heavy beer, or flavored malt beverage to a person within the state except to:
    - (i) ~~((a))~~ an off-premise or on-premise retail licensee;
    - (ii) ~~((an off-premise beer retailer; or))~~ a military installation; or
    - (iii) ~~((an event permittee.))~~ beer to an off-premise beer retailer; or
    - ~~((iii))~~ (iv) beer to an event permittee.
  - (b) A violation of this Subsection (7) is a class A misdemeanor.
- (8)
- (a) A beer wholesaler licensee may not sell or distribute a beer, heavy beer, or flavored malt beverage to a person who sells the beer, heavy beer, or flavored malt beverage at retail outside of a sales territory designated on its application and authorized by an agreement described in Subsection 32B-13-202(8), except that if a beer wholesaler licensee is temporarily unable to supply a person within the beer wholesaler licensee's authorized sales territory, the department may grant temporary authority to another beer wholesaler licensee who distributes the same brand in another sales territory to supply:
    - (i) ~~((a))~~ an off-premise or on-premise retail licensee; ~~((or))~~
    - (ii) ~~((an off-premise beer retailer; or))~~ a military installation; and
    - ~~((iii))~~ (iii) beer to an off-premise beer retailer; or
    - ~~((iii))~~ (iv) beer to an event permittee.
  - (b) A violation of this Subsection (8) is a class B misdemeanor.
- (9)
- (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a warehouse facility located in this state for the receipt, storage, and further distribution of beer, heavy beer, or flavored malt beverages sold by the beer wholesaler licensee to a person within the state.
  - (b) A beer wholesaler licensee may not sell beer, heavy beer, or flavored malt beverages to a person in this state, ~~((other than the department,))~~ unless the beer, heavy beer, or flavored malt beverage is first:
    - (i) physically removed from the vehicle used to transport the beer, heavy beer, or flavored malt beverage from the supplier to the beer wholesaler licensee; and
    - (ii) delivered into the actual possession and control of the beer wholesaler licensee in its warehouse or other facility.
- (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has not had its label and packaging approved by the department in accordance with Chapter 1, Part 6, Malted Beverage Act.
- (11) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a beer wholesaling licensee relating to:
- (a) physical facilities; and
  - (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution, or transportation of beer, heavy beer, or flavored malt beverages within the state.
- (12) A beer wholesaler licensee shall:
- (a) make and maintain a previous fiscal year sales report listing separately heavy beer and flavored malt beverages by item sold to licensees, military installations, and permittees including the following:
    - (i) the licensee, military installation, or permittees name;

- (ii) address;
- (iii) phone number;
- (iv) email contact;
- (v) detailed product information;
- (vi) price and quantity of all products sold.

## **SECTION 98. SECTION 32B-14-101 IS AMENDED TO READ**

### **32B-14-101 Title -- Legislative intent.**

(1) This chapter is known as the "Utah Beer Industry Distribution Act."

(2)

(a) It is the policy of the Legislature to regulate and control the importation, sale, and distribution of beer, heavy beer, and flavored malt beverages within the state in the exercise of its powers under the Twenty-first Amendment to the Constitution of the United States and pursuant to the Utah Constitution.

(b) In furtherance of the policy described in Subsection (2)(a), this chapter is enacted to:

- (i) promote good faith and fair dealing in the business relationships between suppliers, wholesalers, and retailers of beer, heavy beer, and flavored malt beverages; and
- (ii) provide for the establishment and maintenance of an orderly system for the distribution of beer, heavy beer, and flavored malt beverages in accordance with the laws of the state regulating the sale and distribution of beer, heavy beer, and flavored malt beverages to the public.

## **SECTION 99. SECTION 32B-14-102 IS AMENDED TO READ**

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

As used in this chapter:

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

(2)

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

(b) For purposes of this chapter, a separate agreement between a supplier and a wholesaler is considered to be part of a distributorship agreement if it relates to:

- (i) the relationship between the supplier and the wholesaler; or
- (ii) the duties of either the supplier or the wholesaler under a distributorship agreement.

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

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

(5) "Retailer" means a licensee, or beer retailer.

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

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

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

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

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

## **SECTION 100. SECTION 32B-14-201 IS AMENDED TO READ**

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

- (1) Except as provided in Subsection (2) or (3), a supplier or wholesaler may not:
  - (a) terminate a distributorship agreement; or
  - (b) fail to renew a distributorship agreement.
- (2) A supplier or wholesaler may take an action prohibited by Subsection (1) if:
  - (a) the supplier or wholesaler has good cause for the action; and
  - (b) if notification is required by Section 32B-14-202:
    - (i) the terminating party provides the affected party prior notification in accordance with Section 32B-14-202; and
    - (ii) the affected party has not eliminated the reasons specified in the notification as the reasons for the action within 90 days after the date the notification is mailed in accordance with Section 32B-14-202.
- (3) A supplier may take an action prohibited by Subsection (1) if:
  - (a) the supplier gives the wholesaler 30 days written notice before termination or nonrenewal;
  - (b) the supplier discontinues production or discontinues distribution throughout the state of all brands of beer, heavy beer, and flavored malt beverages sold by the supplier to the wholesaler; and
  - (c) the termination or nonrenewal does not violate the distributorship agreement.

## **SECTION 101. SECTION 32B-14-302 IS AMENDED TO READ**

### **32B-14-302 Prohibited conduct of supplier.**

- (1) A supplier may not:
  - (a) induce or coerce, or attempt to induce or coerce, a wholesaler to engage in an illegal act or course of conduct;
  - (b) impose a requirement that is discriminatory by its terms or in the methods of enforcement as compared to requirements imposed by the supplier on similarly situated wholesalers;
  - (c) prohibit a wholesaler from selling a product of another supplier;
  - (d) fix or maintain the price at which a wholesaler may resell beer, heavy beer, and flavored malt beverages;
  - (e) fail to execute with each wholesaler of its brands a written distributorship agreement;
  - (f) require a wholesaler to accept delivery of beer, heavy beer, and flavored malt beverages or any other item that is not voluntarily ordered by the wholesaler;
  - (g) restrict or inhibit, directly or indirectly, the right of a wholesaler to participate in an organization representing interests of wholesalers for a lawful purpose;
  - (h) require a wholesaler to participate in or contribute to a local, regional, or national advertising fund or other promotional activity that:
    - (i) is not used for an advertising or promotional activity in the wholesaler's sales territory; or
    - (ii) would require a contribution by the wholesaler in excess of the amounts specified in the distributorship agreement;
  - (i) retaliate against a wholesaler that files a complaint with the department or the applicable federal agency regarding an alleged violation by the supplier of a state or federal statute or administrative rule;
  - (j) require without good cause a change in the manager of a wholesaler who has previously been approved by the supplier;
  - (k) if a wholesaler changes its approved manager, prohibit the change unless the new manager fails to meet the reasonable standards for similarly situated wholesalers of the supplier as stated in the distributorship agreement; or
  - (l) refuse to deliver a beer, heavy beer, and flavored malt beverages product covered by a distributorship

agreement to the wholesaler:

- (i) in a reasonable quantity; and
- (ii) within a reasonable time after receipt of the wholesaler's order.

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

- (a) the wholesaler's failure to pay the supplier pursuant to the distributorship agreement;
- (b) an unforeseeable event beyond the supplier's control;
- (c) a work stoppage or delay due to a strike or labor problem;
- (d) a bona fide shortage of materials; or
- (e) a freight embargo.

## **SECTION 102. SECTION 32B-14-303 IS AMENDED TO READ**

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

(1) A wholesaler may not:

- (a) induce or coerce, or attempt to induce or coerce, a retailer to engage in an illegal act or course of conduct;
- (b) impose a requirement that is discriminatory by its terms or in the methods of enforcement as compared to requirements imposed by the wholesaler on similarly situated retailers;
- (c) prohibit a retailer from selling a product of another wholesaler;
- (d) fix or maintain the price at which a retailer may resell beer, heavy beer, or flavored malt beverages;
- (e) require a retailer to accept delivery of beer, heavy beer, or flavored malt beverages or any other item that is not voluntarily ordered by the retailer;
- (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an organization representing interests of retailers for a lawful purpose;
- (g) require a retailer to participate in or contribute to a local, regional, or national advertising fund or other promotional activity;
- (h) retaliate against a retailer that files a complaint with the department or the applicable federal agency regarding an alleged violation by the wholesaler of a state or federal statute or administrative rule; and
- (i) refuse to deliver a beer, heavy beer, or a flavored malt beverage product carried by the wholesaler to a properly licensed retailer who resides within the wholesaler's sales territory:
  - (i) in a reasonable quantity; and
  - (ii) within a reasonable time after receipt of the retailer's order.

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

- (a) the retailer's failure to pay the wholesaler pursuant to Subsection 32B-4-704(6);
- (b) an unforeseeable event beyond the wholesaler's control;
- (c) a work stoppage or delay due to a strike or labor problem;
- (d) a bona fide shortage of materials; or
- (e) a freight embargo.

## **SECTION 103. SECTION 32B-17-201 IS AMENDED TO READ**

### **32B-17-201 Commission's power to issue liquor transport license.**

(1)

- (a) A person who is not a retail licensee shall obtain a liquor transport license issued by the commission in accordance with this chapter before the person may:
  - (i) pickup liquor on behalf of a retail licensee and deliver the liquor to a retail licensee or a central receiving and distribution center; or

- (ii) if the person is a central receiving and distribution center:
  - (A) pickup liquor on behalf of an airport licensee and deliver the liquor to the central receiving and distribution center's premises; or
  - (B) receive, screen, store, or deliver alcoholic product as part of the central receiving and distribution center's operations.
- (b) A violation of Subsection (1)(a) is a class A misdemeanor.
- (2) The commission may issue a liquor transport license for:
  - (a) the pickup of liquor on behalf of a retail licensee and the delivery of the liquor to the retail licensee or a central receiving and distribution center; or
  - (b) the receipt, screening, storage, and distribution of alcoholic product by a central receiving and distribution center.
- (3) In accordance with this chapter, a liquor transport license entitles the holder to:
  - (a)
    - (i) pickup liquor from a warehouse licensed under Chapter 12, Liquor Warehousing License Act, a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act ~~((package agency))~~ or state ~~((store))~~ warehouse on behalf of ((a)) an off-premise or on-premise retail licensee using the off-premise or on-premise retail licensee's funds; and
    - (ii) transport and deliver the liquor directly to:
      - (A) the off-premise or on-premise retail licensee; or
      - (B) if the off-premise or on-premise retail licensee is an airport licensee, a central receiving and distribution center; or
  - (b) if the holder is a central receiving and distribution center:
    - (i)
      - (A) pickup liquor from a warehouse licensed under Chapter 12, Liquor Warehousing License Act, a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act ~~((package agency))~~ or state ~~((store))~~ warehouse on behalf of an airport licensee using the airport licensee's funds; and
      - (B) transport the liquor directly to the central receiving and distribution center's premises for screening, storage, and delivery to the airport licensee;
    - (ii) receive at the central receiving and distribution center's premises:
      - (A) liquor purchased by or on behalf of an airport licensee and delivered to the central receiving and distribution center by the airport licensee or a liquor transport licensee; or
      - (B) beer, heavy beer, and flavored malt beverages delivered to the central receiving and distribution center for an airport licensee by a beer wholesaler licensee or a small brewer;
    - (iii) screen and store alcoholic product picked up or received by the central receiving and distribution center; and
    - (iv) transport and deliver the alcoholic product to the airport licensee.
  - (4) Nothing in this chapter prohibits a retail licensee from picking up liquor purchased by the retail licensee and transporting the liquor to the retail licensee's licensed premises in accordance with the other provisions of this title.

#### **SECTION 104. SECTION 32B-17-203 IS AMENDED TO READ**

##### **32B-17-203 Renewal requirements for liquor transport license.**

- (1) A liquor transport license expires on May 31 of each year.
- (2) To renew a liquor transport license, a person shall submit to the department by no later than April 30 of the year in which the license expires:
  - (a) a completed renewal application in a form prescribed by the department;
  - (b) a copy of the person's current business license;
  - (c) a bond as specified in Section 32B-17-206;

(d) evidence that the person carries liability insurance in an amount and form satisfactory to the department;

(e) if the person is not a central receiving and distribution center, a report that includes the following information for the period since the liquor transport licensee obtained or renewed a liquor transport license:

(i) the number of deliveries the liquor transport licensee made to each type of retail licensee; and

(ii) ~~((each state store and each package agency from which))~~ the number of times the liquor transport licensee picked up liquor as a liquor transport licensee from each: ~~((--))~~

(A) state warehouse

(B) warehouse licensed under Chapter 12, Liquor Warehousing License Act; or

(C) manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act;

(f) if the person is a central receiving and distribution center, a report that includes the following information for the period since the liquor transport licensee obtained or renewed a liquor transport license:

(i) the number of times the liquor transport licensee picked up liquor on behalf of an airport licensee; and

(ii) ~~((each state store and each package agency from which))~~ the number of times the liquor transport licensee picked up liquor on behalf of an airport licensee from each: ~~((--))~~

(A) state warehouse;

(B) warehouse licensed under Chapter 12, Liquor Warehousing License Act; or

(C) manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act;

(g) any other information the commission or department requires; and

(h) a \$1,200 renewal fee.

(3) Failure to meet the renewal requirements described in this section results in an automatic forfeiture of the liquor transport license effective on the date the existing liquor transport license expires.

## **SECTION 105. SECTION 32B-17-301.5 IS AMENDED TO READ**

### **32B-17-301.5 Additional operational requirements for liquor transport license held by a central receiving and distribution center.**

(1) A liquor transport licensee that is a central receiving and distribution center shall establish a secure process for:

(a) receiving alcoholic product from airport licensees, liquor transport licensees, beer wholesaler licensees, direct shipping wholesaler licensees, manufacturer licensees, and small brewers at the central receiving and distribution center's premises;

(b) screening and storing alcoholic product the central receiving and distribution center receives or brings to the premises; and

(c) delivering alcoholic product to the airport licensee that owns the alcoholic product.

(2) As part of the secure process described in Subsection (1), the central receiving and distribution center shall:

(a) clearly identify and keep separate each airport licensee's alcoholic product;

(b) maintain alcoholic product in a locked storage area or container at all times except during:

(i) a security screening of the alcoholic product; or

(ii) transportation of the alcoholic product;

(c) notify the receiving airport licensee when screening is complete and alcoholic product is ready for delivery; and

(d) deliver the alcoholic product to the receiving airport licensee.

(3) The commission may prescribe by rule, consistent with this title, the operational requirements of a liquor transport licensee that is a central receiving and distribution center.

## **SECTION 106. SECTION 32B CHAPTER 19 IS ENACTED TO READ**

**Chapter 19**  
**Liquor Store License Act**

**SECTION 107. SECTION 32B CHAPTER 19, PART 1, IS ENACTED TO READ**

**Part 1**  
**General Provisions**

**SECTION 108. SECTION 32B-19-101 IS ENACTED TO READ**

**32B-19-101 Title.**

This chapter is known as the “Liquor Store License Act.”

**SECTION 109. SECTION 32B-19-102 IS ENACTED TO READ**

**32B-19-102 Definitions.**

As used in this chapter:

(1) “Liquor Store License” means:

(a) a license issued by the commission for the retail sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages for off-premise consumption.

**SECTION 110. SECTION 32B CHAPTER 19, PART 2, IS ENACTED TO READ**

**Part 2**  
**Liquor Store License Local Authority**

**SECTION 111. SECTION 32B-19-201 IS ENACTED TO READ**

**32B-19-201 State and Local Licensing - Limitations.**

(1) Subject to the other provisions of this title, a local authority may:

(a) prohibit the retail sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages;

(b) subject to this part, issue, suspend, and revoke a local license to sell spirituous liquor, wine, heavy beer, beer or flavored malt beverages at retail for off-premise consumption;

(c) establish proximity requirements for establishing premises where spirituous liquor, wine, heavy beer, beer or flavored malt beverages are sold at retail for off-premise consumption in relation to any community location; and

(d) otherwise regulate the retail sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages for off-premise consumption subject to the general operational requirements of Section 32B-19-406.

(2) A local authority may not issue to a minor a local license to sell spirituous liquor, wine, heavy beer, beer or flavored malt beverages at retail for off-premise consumption.

**SECTION 112. SECTION 32B CHAPTER 19, PART 3, IS ENACTED TO READ**



**Part 3**  
**Liquor Store License Enforcement Act**

**SECTION 113. SECTION 32B-19-301 IS ENACTED TO READ**

**32B-19-301 Title.**

This part is known as the “Liquor Store License Enforcement Act.”

**SECTION 114. SECTION 32B-19-302 IS ENACTED TO READ**

**32B-19-302 Tracking of Enforcement Actions - Costs of Enforcement Actions.**

(1) A local authority that pursuant to this part adjudicates an administrative penalty for a violation of a law involving the sale of an alcoholic product to a minor, shall:

(a) maintain a record of an adjudicated violation until the record is expunged under Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who commits the violation;

(ii) the name of the liquor store licensee for whom the individual is a staff member at the time of the violation; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days of the date on which a violation is adjudicated.

(2)

(a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the violation history information received under Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist a local authority in assessing administrative penalties; and

(ii) inform a liquor store licensee of an individual who has an administrative violation history.

(c) The Department of Public Safety shall maintain a record of violation history information received pursuant to Subsection (1) until the record is expunged under Subsection (3).

(3)

(a) A local authority and the Department of Public Safety shall expunge from the records maintained an administrative penalty imposed for purposes of determining future administrative penalties if the individual has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.

(b) A local authority shall expunge from the records maintained by the local authority an administrative penalty imposed against a liquor store licensee for purposes of determining future administrative penalties if the liquor store licensee or any staff of that liquor store licensee has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the liquor store licensee or staff of the liquor store licensee is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.

(4) The Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:

(a) for the actual costs of an alcohol-related compliance check investigation conducted pursuant to Section 77-39-101 on the premises of a liquor store licensee;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection (4)(a);

(c) if the municipal or county law enforcement agency completes and submits to the Department of Public Safety a report within 90 days of the compliance check investigation described in Subsection (4)(a) in a format required by the Department of Public Safety; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection (4)(c) until the amount allocated by the Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.

(5) The Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:

(a) compliance check investigations reimbursed under Subsection (4); and

(b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).

## **SECTION 115. SECTION 32B CHAPTER 19, PART 4, IS ENACTED TO READ**

### **Part 4**

### **Liquor Store License State License**

## **SECTION 116. SECTION 32B-19-401 IS ENACTED TO READ**

### **32B-19-401 Commission's Power to Issue a Liquor Store License State License.**

(1) Beginning on July 1, 2025, and except as provided in Subsection (3), before a person may purchase, store, sell, or offer for sale spirituous liquor, wine, heavy beer, beer or flavored malt beverages for consumption off the person's premises, the person shall obtain a liquor store license state license in accordance with this part.

(2) The commission may issue a liquor store license state license for the retail sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages for consumption off the retailer's premises.

(3)

(a) Subject to Subsection (3)(b), a person who operates as a liquor store license on or after July 1<sup>st</sup>, 2025, shall submit an application for a liquor store license state license on or before June 30<sup>th</sup>, 2025.

(b) In addition to the fees described in Section 32B-19-402, a person described in Subsection (3)(a) who submits an application for a liquor store license state license after June 30<sup>th</sup>, 2025, shall submit with the person's application a fee in the following amount:

(i) \$500, if the person submits the application after June 30<sup>th</sup>, 2025.

(4) Subject to Section 32B-1-201

(a) The commission may not grant a total number of liquor store licensees that at any time exceeds the number determined by dividing the population of the state by 54,000.

(b) The commission may not grant a liquor store license at premises that does not meet the proximity requirements of Section 32B-1-202.

## **SECTION 117. SECTION 32B-19-402 IS ENACTED TO READ**

### **32B-19-402 Application for a Liquor Store License State License - Qualifications.**

To obtain a liquor store license state license, a person shall submit to the department:

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

(2) a nonrefundable application fee of \$250;

(3) an initial license fee of \$5,000 that is refundable if the commission does not issue the liquor store license state license;

(4) written consent of the local authority;

(5) a copy of the person's current business license;

- (6) a floor plan of the premises that outlines the location of each display;
- (7) a signed consent form stating the person will permit any authorized representative of the commission or the department or any law enforcement officer to have unrestricted right to enter the licensed premises;
- (8) if the person is an entity, proper verification evidencing that the individual who signs the application is authorized to sign on behalf of the entity; and
- (9) any other information that the commission or department requires.

#### **SECTION 118. SECTION 32B-19-403 IS ENACTED TO READ**

##### **32B-19-403 Renewal of Liquor Store License State License.**

- (1) A liquor store license state license expires on April 30 each year.
- (2) To renew a liquor store license state license, a liquor store license state licensee shall, no later March 31, submit:
  - (a) a completed renewal application to the department in a form prescribed by the department; and
  - (b) a renewal fee of \$2,500.
- (3) A liquor store license state licensee automatically forfeits the liquor store license state license if the liquor store license state licensee fails to satisfy the renewal requirements described in this section.

#### **SECTION 119. SECTION 32B-19-404 IS ENACTED TO READ**

##### **32B-19-404 Bond for a Liquor Store License State License.**

- (1) A liquor store licensee shall post a cash bond or surety bond:
  - (a) in the penal amount of at least \$5,000, as the department determines; and
  - (b) payable to the department.
- (2) A liquor store licensee shall procure and maintain the bond required under this section for as long as the liquor store licensee continues to operate as a liquor store licensee.
- (3) A bond required under this section shall be:
  - (a) in a form approved by the attorney general; and
  - (b) conditioned upon the liquor store licensees faithful compliance with this title, the rules of the commission, and the liquor store license.
- (4)
  - (a) If a surety bond posted by a liquor store licensee under this section is canceled due to the liquor store licensees' negligence, the department may assess a \$300 reinstatement fee.
  - (b) No part of a bond posted by a liquor store licensee under this section may be withdrawn:
    - (i) during the period the liquor store license is in effect; or
    - (ii) while a revocation of the liquor store licensee is pending against the liquor store licensee.
- (5)
  - (a) A bond posted under this section by a liquor store licensee may be forfeited if the liquor store license is revoked.
  - (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a liquor store licensee for money owed the department under this title without the commission first revoking the liquor store license.

#### **SECTION 120. SECTION 32B-19-405 IS ENACTED TO READ**

##### **32B-19-405 Duties of Commission and Department Before Issuing a Liquor Store License State License.**

- (1)
  - (a) Before the commission issues a liquor store license state license, the department shall conduct an investigation and may hold one or more public hearings to gather information and make recommendations

to the commission regarding whether the commission should issue a liquor store license state license.

(b) The department shall forward the information the department gathers and the department's recommendations to the commission.

(2) Before the commission issues a liquor store license state license, the commission shall:

(a) determine that the person filed a complete application and is in compliance with the provisions of this chapter;

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

(c) consider the physical characteristics of the premises where spirituous liquor, wine, heavy beer, beer or flavored malt beverages is displayed; and

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

## **SECTION 121. SECTION 32B-19-406 IS ENACTED TO READ**

### **32B-19-406 General Operational Requirements for a Liquor Store License.**

(1)

(a) A liquor store licensee or staff of the liquor store licensee shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1<sup>st</sup>, 2025, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2)

(a) A liquor store licensee may not purchase, acquire, possess for the purpose of resale, or sell spirituous liquor, wine, heavy beer, beer or flavored malt beverages, except spirituous liquor, wine, heavy beer, beer or flavored malt beverages that the liquor store licensee lawfully purchases from:

(i) the department;

(ii) a direct shipping wholesaler licensed by the commission under Chapter 20, Direct Shipping Wholesaler License Act;

(iii) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act;

(iv) from a beer wholesaler licensed by the commission under Chapter 13, Beer Wholesaling License Act;  
or

(v) a small brewer.

(3)

(a) A liquor store licensee may not sell, offer for sale, or furnish spirituous liquor, wine, heavy beer, beer or flavored malt beverages below 13% markup over the wholesale acquisition cost of goods; and

(i) a liquor store licensee shall sell, offer for sale, or furnish spirituous liquor, wine, heavy beer, beer or flavored malt beverages at prices consistent with the supplier recommended national MSRP.

(ii) a liquor store licensee may not sale, offer for sale, or furnish spirituous liquor, wine, heavy beer, beer or flavored malt beverages at a discount during 2 consecutive calendar months.

(4) A liquor store licensee may not:

(a) possess, sell, offer for sale, or furnish spirituous liquor, heavy beer, beer or flavored malt beverages in a container larger than two liters; or

(b) possess, sell, offer for sale, or furnish wine in a container larger than six liters.

(5)

(a) Staff of a liquor store licensee, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell spirituous liquor, wine, heavy beer, beer or flavored malt beverages on the licensed premises of a liquor store licensee.

(6) A liquor store licensee may not sell, offer for sale, or furnish an alcoholic product to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

(7)

- (a) Subject to the other provisions of this Subsection (7), a liquor store licensee shall:
  - (i) display spirituous liquor, wine, heavy beer, beer or flavored malt beverages accessible by and visible to a patron in locations on the retail sales floor, each of which is:
    - (A) a display cabinet, cooler, aisle, floor display, or room where alcoholic products are the only beverage displayed; and
    - (B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the spirituous liquor, wine, heavy beer, beer or flavored malt beverages is separated from the display of nonalcoholic beverages by a display of one or more non-beverage products or another physical divider; and
  - (ii) display a sign in the area described in Subsection (7)(a)(i) that:
    - (A) is prominent;
    - (B) is easily readable by a consumer;
    - (C) meets the requirements for format established by the commission by rule; and
    - (D) a header that reads: "WARNING";
    - (E) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";
    - (F) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";
    - (G) a header that reads: "WARNING"; and
    - (H) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."
- (b) Notwithstanding Subsection (7)(a), a nonalcoholic beer or non-alcoholic wine may be displayed with beer, heavy beer, or wine if the nonalcoholic beer or wine is labeled, packaged, or advertised as nonalcoholic beer or wine.
- (c) The requirements of this Subsection (7) apply to beer notwithstanding that it is labeled, packaged, or advertised as:
  - (i) a malt cooler; or
  - (ii) a beverage that may provide energy.
- (d) A violation of this Subsection (7) is an infraction.
- (e) The provisions of Subsection (7) apply on and after July 1<sup>st</sup>, 2025.

(8)

- (a) Staff of a liquor store licensee who directly supervises the sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages or who sells spirituous liquor, wine, heavy beer, beer or flavored malt beverages to a patron for consumption off the premises of the liquor store license shall wear a unique identification badge:
  - (i) on the front of the staff's clothing;
  - (ii) visible above the waist;
  - (iii) bearing the staff's:
    - (A) first or last name;
    - (B) initials; or
    - (C) unique identification in letters or numbers; and
  - (iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of spirituous liquor, wine, heavy beer, beer, or flavored malt beverages.

(b) A liquor store licensee shall make and maintain a record of each current staff's unique identification badge assigned by the liquor store licensee that includes the staff's:

- (i) full name;
- (ii) address; and
- (iii) driver license number; or
- (iv) similar identification number.

(c) A liquor store license shall make available a record required to be made or maintained under this Subsection (8) for immediate inspection by:

- (i) a peace officer;
- (ii) a representative of the local authority that issues the liquor store business license; or
- (iii) for a liquor store license state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to \$250 against a liquor store licensee that does not comply or require its staff to comply with this Subsection (8).

(9)

(a) A liquor store licensee may not sell, offer for sale, or furnish spirituous liquor, wine, heavy beer, beer or flavored malt beverages through a drive through window.

(b) Subsection (9)(a) does not modify the display limitations and requirements described in Subsection (7).

(10)

(a) Sale or delivery of spirituous liquor, wine, heavy beer, beer or flavored malt beverages may be made to the premises of a liquor store licensee during the hours of 8:00 am and cease at 5:00 p.m.; and

(b) a liquor store licensee may be open for the retail sale of spirituous liquor, wine, heavy beer, beer or flavored malt beverages during a period that begins at 11:00 a.m. and ends at 10:00 p.m.

(c) a liquor store licensee may be open for daily business during hours and days subject to Subsection (10)(b) set solely at the liquor store licensees discretion.

(11) A liquor store licensee may sell, offer for sale, or furnish wine, heavy beer, beer or flavored malt beverages that are refrigerated from the liquor store licensees location.

(12)

(a) A liquor store licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of spirituous liquor, wine, heavy beer, beer or flavored malt beverages under a liquor store license.

(b) staff of the off-premise retail licensee that sells, offers for sale, or furnishes spirituous liquor, wine, heavy beer, beer or flavored malt beverages under a liquor store license shall complete the alcohol training and education seminar approved by the department.

(13) A minor may not enter the premises of a liquor store license unless accompanied by an adult or legal guardian.

(14)

(a) A liquor store license may not close or cease operation for a period longer than 72 hours, unless:

- (i) the liquor store license notifies the department in writing at least seven days before the day on which the liquor store license closes or ceases operation; and
- (ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (14)(a), in the case of emergency closure, a liquor store licensee shall immediately notify the department by telephone.

(c)

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

(ii) The department may extend the initial period described in Subsection (14)(c)(i) an additional 30 days upon written request of the liquor store licensee and upon a showing of good cause.

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

(d) The notice required by Subsection (14)(a) shall include:

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

- (ii) the reason for the closure or cessation of operation; and
  - (iii) the date on which the liquor store license will reopen or resume operation.
- (e) Failure of a liquor store licensee to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the liquor store license effective immediately.
- (f) Failure of a liquor store license to reopen or resume operation by the approved date results in an automatic termination of the liquor store license effective on that date.
- (15) A liquor store license may not transfer the liquor store licensed operations from one location to another location without prior written approval of the commission.
- (16)
  - (a) A person, having been issued a liquor store license, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the liquor store license to another person, whether for monetary gain or not.
  - (b) A liquor store license has no monetary value for any type of disposition.

## **SECTION 122. SECTION 32B-19-407 IS ENACTED TO READ**

### **32B-19-407 Tasting provided by a Liquor Store Licensee.**

- (1) As used in this section:
  - (a) "Taste" means an amount of an alcoholic product provided by a liquor store licensee for consumption under this section.
- (2) A liquor store licensee may provide for a tasting in accordance with this section.
- (3) Before conducting a tasting, the liquor store licensee shall provide the department:
  - (a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the liquor store licensee were an on-premise retail licensee;
  - (b) a floor plan, and boundary map where applicable, of the premises of the liquor store licensee, including any:
    - (i) consumption area; and
    - (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic product to be tasted;
  - (c) evidence that the liquor store licensee is carrying public liability insurance in an amount and form satisfactory to the department;
  - (d) evidence that the liquor store licensee is carrying dramshop insurance coverage in an amount and form satisfactory to the department; and
  - (e) any other information the commission or department may require.
- (4) A liquor store licensee may not sell, offer for sale, or furnish a taste on any day during the period that:
  - (a) begins at midnight; and
  - (b) ends at 10:59 a.m.
- (5) staff of the off-premise retail licensee who serves a taste on behalf of the liquor store licensee shall complete an alcohol training and education seminar as if the person were employed by an on-premise retail licensee.
- (6)
  - (a) A liquor store licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed during the time period when tasting occurs.
  - (b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the liquor store licensee sales, offers for sale, or furnishes alcoholic products, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).
- (7)

- (a) A liquor store licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.
- (b) The commission may define what constitutes “substantial food” by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.
- (8) A liquor store licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than 50% markup above the wholesale acquisition cost of the taste to the liquor store licensee.
- (9)
- (a) A liquor store licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:
- (i) 5 ounces of wine;
- (ii) 2 ounces of spirituous liquor; or
- (iii) 8 ounces of beer, heavy beer, or flavored malt beverages.
- (b) A liquor store licensee may not allow an individual to participate in more than one tasting within a calendar day or any combination of Subsection (9)(a)(i), (9)(a)(ii), (9)(a)(iii).
- (10) A liquor store licensee may provide a taste of alcoholic product that is:
- (a) purchased by the liquor store licensee from:
- (i) a state warehouse;
- (ii) a direct shipping wholesaler licensee;
- (iii) a manufacturer licensed under Chapter 11, Manufacturing and Related Licenses Act;
- (iv) for beer, heavy beer, and flavored malt beverages, a beer wholesaler licensee; or
- (v) a small brewer.
- (11)
- (a) A liquor store licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:
- (i) a header that reads: “WARNING”;
- (ii) a warning statement that reads: “Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.”;
- (iii) a statement in smaller font that reads: “Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.”;
- (iv) a header that reads: “WARNING”; and
- (v) a warning statement that reads: “Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”
- (b)
- (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).
- (ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.
- (c) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).
- (12) A liquor store licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.

## **SECTION 123. SECTION 32B-19-408 IS ENACTED TO READ**

### **32B-19-408 Recordkeeping.**

- (1) A liquor store licensee shall make and maintain a record showing in detail:
- (a) quarterly expenditures made separately for:
- (i) flavored malt beverages;
- (ii) beer;



- (iii) heavy beer;
  - (iv) spirituous liquor;
  - (v) wine; and
  - (vi) any other item required by the department;
- (b) quarterly retail sales or any wholesale sales to an on-premise retail license in a rural area made separately for:
  - (i) flavored malt beverages;
  - (ii) beer;
  - (iii) heavy beer;
  - (iv) spirituous liquor;
  - (v) wine; and
  - (vi) any other item required by the department.
- (2) A liquor store licensee shall make and maintain a record required by Subsection (1):
  - (a) in a form approved by the department; and
  - (b) keep current for each three-month period.
- (3) A liquor store licensee shall support an expenditure by:
  - (a) a delivery ticket;
  - (b) an invoice;
  - (c) a receipted bill;
  - (d) a canceled check;
  - (e) a petty cash voucher; or
  - (f) other sustaining datum or memorandum.
- (4) In addition to a record required under Subsection (1), a liquor store licensee shall make and maintain any other record the department may require.
- (5)
  - (a) A record of a liquor store licensee is subject to inspection by an authorized representative of the commission and the department.
  - (b) A liquor store licensee shall allow the department, through an auditor or examiner of the department, to audit the records of the liquor store licensee at times the department considers advisable.
- (6) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this section.

## **SECTION 124. SECTION 32B-19-409 IS ENACTED TO READ**

### **32B-19-409 Notifying Department of Change of Ownership.**

The commission may suspend or revoke a liquor store license state license if a liquor store license state licensee does not immediately notify the department of a change in:

- (1) ownership of the licensee's business;
- (2) for a corporate owner, a shareholder holding at least 20% of the total issued and outstanding stock of the corporation; or
- (3) for a limited liability company, a member owning at least 20% of the limited liability company.

## **SECTION 125. SECTION 32B-19-410 IS ENACTED TO READ**

### **32B-19-410 Conditional Liquor Store License State License.**

(1) As used in this section, "conditional liquor store license state license" means a liquor store license state license that conditions the holder's ability to purchase, store, sell, or offer for sale spirituous liquor, wine, heavy beer, beer or flavored malt beverages for consumption off the holder's licensed premises on the holder submitting to the department a copy of the holder's current business license.

(2) In accordance with the provisions of this section, the commission may issue a conditional liquor store license state license to a person if the person:

(a) meets the requirements to obtain a liquor store license state license, except the requirement to submit a copy of the person's current business license; and

(3)

(a) For a conditional liquor store license state license to become a liquor store license state license, a person who holds the conditional liquor store license state license shall:

(i) submit to the department a copy of the person's current business license; and

(ii) provide to the department evidence satisfactory to the department that:

(A) there has been no change in the information submitted to the commission as part of the person's application for a liquor store license state license; and

(B) the person continues to qualify for a liquor store license state license.

(b) A conditional liquor store license state license becomes a liquor store license state license on the day on which the department notifies the person who holds the conditional liquor store license state license that the department finds that the person has complied with Subsection (3)(a).

(4)

(a) A conditional liquor store license state license expires nine months after the day on which the commission issues the conditional liquor store license state license, unless the conditional liquor store license state license becomes a liquor store license state license before that day.

(b) Notwithstanding Subsection (4)(a), the commission may extend the expiration date of a conditional liquor store license state license by three months if the holder demonstrates to the satisfaction of the commission that the holder:

(i) has an active building permit related to the licensed premises; and

(ii) is engaged in a good faith effort to pursue completion within the three-month period.

## **SECTION 126. SECTION 32B-19-411 IS ENACTED TO READ**

### **32B-19-411 Multiple Licenses on Same Premises.**

(1) The commission may not issue a liquor store license state license for the same licensed premises as an on-premise retail license or package agency license.

## **SECTION 127. SECTION 32B, CHAPTER 20, IS ENACTED TO READ**

### **Chapter 20**

### **Direct Shipping Wholesaler License Act**

## **SECTION 128. SECTION 32B CHAPTER 20, PART 1, IS ENACTED TO READ**

### **Part 1**

### **General Provisions**

## **SECTION 129. SECTION 32B-20-101 IS ENACTED TO READ**

### **32B-20-101 Title.**

This chapter is known as the "Direct Shipping Wholesaler License Act."

## **SECTION 130. SECTION 32B-20-102 IS ENACTED TO READ**

## **32B-20-102 Definitions.**

As used in this chapter:

(1) “Direct Shipping Wholesaler License” means:

(a) a license issued by the commission to an out of state supplier to import, wholesale, offer for sale, and distribute spirituous liquor or wine to a person licensed to sell at retail spirituous liquor or wine for on or off premise consumption.

(2) Retailer or retail license means:

(a) an on-premise retail license or off-premise retail license licensed under this title to sale, offer for sale, or furnish spirituous liquor or wine at retail pricing to the end consumer.

(3) Liquor means:

(a) spirituous liquor.

(4) Wine means:

(a) wine, cider or sake.

## **SECTION 131. SECTION 32B CHAPTER 20, PART 2, IS ENACTED TO READ**

### **Part 2**

### **Direct Shipping Wholesaler License State License**

## **SECTION 132. SECTION 32B-20-201 IS ENACTED TO READ**

### **32B-20-201 Commission’s Power to Issue a Direct Shipping Wholesaler License State License.**

(1)

(a) Before a person may import, store, wholesale, offer for sale, or distribute spirituous liquor or wine to a person who sells at retail, or acts in any way as a retailer, the person shall first obtain a direct shipping wholesaler license issued by the commission in accordance with this chapter.

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

(2)

(a) The commission may issue a direct shipping wholesaler license for the purchase, wholesale, distribution, transportation, and import of spirituous liquor or wine.

(b) A direct shipping wholesaler license entitles the direct shipping wholesaler licensee to:

(i) import spirituous liquor or wine directly into the state; and

(ii) store spirituous liquor or wine in an approved warehouse with a person licensed under Chapter 12 Liquor Warehousing License Act; and

(iii) wholesale and distribute spirituous liquor or wine directly to:

(A) an off-premise retail licensee;

(B) a military installation;

(C) an on-premise retail licensee; or

(D) permittee.

(3) Nothing in this section precludes an in-state distillery or winery manufacturer licensee from wholesaling spirituous liquor or wine the distillery or winery manufactures directly to:

(a) an off-premise retail licensee;

(b) a military installation;

(c) an on-premise retail licensee; or

(d) permittee.

(4) Beginning July 1<sup>st</sup>, 2025, the commission may issue a direct shipping wholesaler license state license for the wholesale of spirituous liquor or wine to licensees, military installations, and permittees.

### **SECTION 133. SECTION 32B-20-202 IS ENACTED TO READ**

#### **32B-20-202 Application Requirements for a Direct Shipping Wholesaler License State License.**

To obtain a direct shipping wholesaler license state license, a person shall submit to the department:

(1) A written application in a form prescribed by the department;

(2) A nonrefundable \$150 application fee;

(3) An initial license fee of \$200 that is refundable if a direct shipping wholesaler license is not issued;

(4) A copy of the person's current business license;

(5) A statement of the brands of spirituous liquor or wine the person is authorized to sell and distribute;

(6) A signed consent form stating that the direct shipping wholesaler licensee will:

(a) charge 30% markup above the price of spirituous liquor and wine sold directly to a licensee or permittee, and remit the markup to the state in a timeframe and manner prescribed by the department;

(b) charge 17% markup above the price of spirituous liquor and wine sold directly to a military installation, and remit the markup to the state in a timeframe and manner prescribe by the department;

(c) provide a sales list described under Subsection (7) to which the direct shipping wholesaler has sold spirituous liquor or wine directly to during the previous running three-year period within 30 days of the department's inquiry. The sales list must include all:

(i) off-premise retail licensees;

(ii) military installations;

(iii) on-premise retail licensees; or

(iv) permittees.

(7) The direct shipping wholesaler's sales list must include the following for each licensee, military installation, or permittee:

(a) the licensee, military installation, or permittee's name;

(b) address;

(c) phone number;

(d) email contact;

(e) detailed product information sold to the licensee, military installation or permittee;

(f) the exact price and quantities of the products sold; and

(g) separate columns listing 30% markup for licensees and permittees, and 17% markup for military installations, remitted to the department.

(8) Any other information that the commission or department may require.

### **SECTION 134. SECTION 32B-20-203 IS ENACTED TO READ**

#### **32B-20-203 Renewal Requirements for a Direct Shipping Wholesaler License.**

(1) A direct shipping wholesaler license expires on December 31 of each year.

(2) To renew a direct shipping wholesaler license, a person shall submit to the department by no later than November 30 of the year the license expires:

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

(b) the previous year's direct sales report; and

(c) a renewal fee in the following amount:

<u>Case Sales of Previous Year for the Licensee</u>		<u>Renewal Fee</u>
	<u>under 10,000 cases</u>	<u>\$200</u>

	<u>equals or exceeds 10,000 cases but less than 30,000 cases</u>	<u>\$500</u>
	<u>equals or exceeds 30,000 cases</u>	<u>\$1,000</u>

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the direct shipping wholesaler license effective on the date the existing direct shipping wholesaler license expires.

(4) A list of suppliers licensed as a direct shipping wholesaler shall be posted on the UDABS website and updated monthly.

## **SECTION 135. SECTION 32B-20-204 IS ENACTED TO READ**

### **32B-20-204 Specific Qualifications for a Direct Shipping Wholesaler License.**

(1) The commission may not issue a direct shipping wholesaler license to a person who:

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

(b) does not meet the applicable federal requirement for spirituous liquor or wine wholesaling.

(2)

(a) The commission may not issue one of the following licenses to a direct shipping wholesaler licensee simultaneously, and a direct shipping wholesaler licensee may not, directly or indirectly, hold, through a wholly or partially owned subsidiary or otherwise, one of the following Utah issued licenses:

(i) a distillery manufacturing license;

(ii) a winery manufacturing license;

(iii) an off-premise retail license;

(iv) an on-premise retail licenses;

(v) a liquor warehouse license;

(vi) a liquor transport license.

(3) If a person to whom a direct shipping wholesaler license is issued under this chapter no longer possesses the qualifications required by this title for obtaining that direct shipping wholesaler license, the commission may suspend or revoke that direct shipping wholesaler license.

## **SECTION 136. SECTION 32B-20-205 IS ENACTED TO READ**

### **32B-20-205 Commission and Department Duties Before Issuing a Direct Shipping Wholesaler License.**

(1)

(a) Before the commission may issue a direct shipping wholesaler license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a direct shipping wholesaler license should be issued.

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

(2) Before issuing a direct shipping wholesaler license, the commission shall:

(a) determine that the person filed a complete application;

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

(c) consider the alcoholic product list of the supplier; and

(i) the means the person intends to transport and distribute spirituous liquor or wine;

(ii) the brands the person intends to wholesale;

(iii) the competing factors of the brands sold by the department;

(iv) if the brands will be warehoused within the state prior to wholesale; and

(v) the supplier's good faith standing with the department.

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

**SECTION 137. SECTION 32B CHAPTER 20, PART 3, IS ENACTED TO READ**

**Part 3**

**Operational Requirements for a Direct Shipping Wholesaler License**

**SECTION 138. SECTION 32B-20-301 IS ENACTED TO READ**

**32B-20-301 General Operational Requirements for a Direct Shipping Wholesaler License.**

(1)

(a) A direct shipping wholesaler licensee and staff of the direct shipping wholesaler licensee shall comply with this title and the rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a) may result in immediate revocation and termination of a direct shipping wholesaler license.

(2)

(a) A direct shipping wholesaler licensee shall make and maintain the records required by the department.

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

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

(4) A direct shipping wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the direct shipping wholesaler license to a person, whether for monetary gain or not.

(5) A direct shipping wholesaler licensee may not wholesale a spirituous liquor brand or wine brand sold by the department in direct competition in any attempt to undermine department sales.

(6) A direct shipping wholesaler licensee may not wholesale spirituous liquor or wine into this state that does not comply with federal regulations.

(7)

(a) A direct shipping wholesaler licensee may not wholesale or distribute spirituous liquor or wine to a person within the state except to:

- (i) an off-premise retail licensee;
- (ii) a military installation;
- (iii) an on-premise retail licensee; or
- (iv) a permittee; or
- (v) a liquor warehouse licensee.

(b) A violation of this Subsection (7) is a third degree felony.

(8)

(a) A direct shipping wholesaler licensee may not wholesale spirituous liquor or wine to a person in this state, unless the spirituous liquor or wine is:

- (i) paid in full by the licensee or permittee including 30% markup tax or 17% markup tax for military installations; and
- (ii) the tax is remitted to the state in a timeframe and manner prescribed by the department;
- (iii) physically removed from the vehicle used to transport the spirituous liquor or wine from the supplier to:
  - (A) an off-premise retail licensee;
  - (B) a military installation;
  - (C) an on-premise retail licensee;
  - (D) a permittee; or
  - (E) a warehouse licensee.
- (iv) delivered into the actual possession and control of:

- (A) an off-premise retail licensee;
- (B) a military installation;
- (C) an on-premise retail licensee;
- (D) a permittee; or
- (E) a warehouse.

(9) A direct shipping wholesaler licensee may not wholesale or distribute spirituous liquor or wine that has not had its list of brands approved by the department.

(10) A direct shipping wholesaler licensee may contract for a fee with a person licensed to operate a warehouse under Chapter 12, Liquor Warehousing License Act, or a person licensed to transport spirituous liquor or wine under Chapter 17, Liquor Transport License Act to expedite deliveries to licensees, military installations, and permittees.

(11) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a direct shipping wholesaler licensee relating to:

- (a) the conditions of importation, purchase, storage, wholesale, offering for sale, distribution, or transportation of spirituous liquor or wine within the state.

## **SECTION 139. SECTION 32B-20-302 IS ENACTED TO READ**

### **32B-20-302 Notifying the Department of a Change of Ownership.**

(1) The commission may suspend or revoke a direct shipping wholesaler license if a direct shipping wholesaler licensee does not immediately notify the department of change in:

- (a) ownership of the direct shipping wholesaler license;
- (b) for a corporate owner, the:
  - (i) corporate officers or directors; or
  - (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:
  - (i) managers; or
  - (ii) members owning at least 20% of the limited liability company.

## **SECTION 140. SECTION 32B CHAPTER 21, IS ENACTED TO READ**

### **Chapter 21** **Wine Club Direct License Act**

## **SECTION 141. SECTION 32B CHAPTER 21, PART 1, IS ENACTED TO READ**

### **Part 1** **General Provisions**

## **SECTION 142. SECTION 32B-21-101 IS ENACTED TO READ**

### **32B-21-101 Definitions.**

As used in this part:

- (1) "Enrollment" means the process of signing up with the department for the purpose of receiving direct-to-consumer wine shipments from an exclusive wine club membership at a winery or specialty retailer.
- (2) "Member" means a person who subscribes to a wine club membership and registers with the department so they can receive direct-to-consumer wines from a winery or specialty retailer.
- (3) "Wine club member" means a person with an active membership in an exclusive club the person

subscribes to at a winery or specialty retailer in which the person pays retail pricing at regular intervals that involves the direct shipment and transportation of specialty wines from a winery wine club or specialty retailer wine club.

(4) "Wine club" means:

(a) an exclusive club with a winery or a specialty retailer that produces or curates exclusive, reserve, or specialty wines for sale at retail that are generally not offered to the public and sells them to a person subscribing to the club; and

(b) is granted a state license with the department to sell exclusive, reserve, or specialty wines directly to a Utah citizen as part of a wine club program.

(5) "Specialty Retailer" means an online retailer that curates' exclusive wines by varietal, geographic location, vinification processes, etc., and offers them for retail sale to wine club members.

## **SECTION 143. SECTION 32B-21-102 IS ENACTED TO READ**

### **32B-21-102 Wine Club Program - Citizens.**

(1) The department shall establish and administer a wine club program as described in this part.

(2) The wine club program shall permit a person, over 21 years of age, to subscribe to a wine club membership at a bona fide winery or specialty retailer that offers exclusive wines for sale at retail to wine club members.

(3) A person must:

(a) provide proof of age and enroll with the department on a form prescribed by the department; and

(b) list the wine club memberships to which the individual subscribes.

(4) A person may not receive more than four nine-liter cases (12 x 750ml bottles) from any combination of wine club memberships per UDABS fiscal year – July 1<sup>st</sup> thru June 30<sup>th</sup>; and

(a) A person will remain enrolled in the program until the department is notified of removal from the enrollment list by a winery, specialty retailer, or the enrolled individual.

(5) The enrollment list shall be posted on the UDABS website and updated monthly for wineries and specialty retailers to ensure compliance prior to shipping.

## **SECTION 144. SECTION 32B-21-103 IS ENACTED TO READ**

### **32B-21-103 Wine Club License – Wineries and Specialty Retailers.**

(1) Prior to sending wine shipments to any household, a winery or specialty retailer shall:

(a) file an application with the department on a form prescribed by the department;

(b) pay an annual license fee of \$50.00 to the department for the fiscal year July 1 and ending June 30<sup>th</sup>;

(c) provide a copy of current winery or specialty retail business license issued in the state of domicile;

(d) after the first year as a licensee, file a previous fiscal year sales report listed in subsection (3); and

(e) provide any other information required by the department.

(2) An employee or representative of a winery or specialty retailer shall sign a consent form stating that as a wine club direct licensee they will:

(a) sell, offer for sale, or furnish only wine at retail that is exclusive to wine club members and not in direct competition to a wine listed and carried by the department or sold through a direct shipping wholesaler licensed under Chapter 20, Direct Shipping Wholesaler License Act;

(b) charge 12% markup on wine and applicable sales tax on exclusive wines sold directly to a wine club member;

(c) remit the 12% markup on wine and applicable sales tax to the state in a timeframe and manner prescribed by the department;

(d) provide a sales list of Utah citizens subscribing to an exclusive club that the winery or specialty retail



licensee has sold wine to during the previous running three-year period within 30 days of the department's inquiry.

(3) The wine club direct or specialty retailer licensee sales list must include:

(a) the person's name;

(b) address;

(c) phone number;

(d) email contact;

(e) detailed product information sold to the individual;

(f) the exact price and quantities of the product sold to the individual; and

(g) a column listing the 12% tax markup remitted to the department and a column with applicable sales tax markup remitted to the state tax division.

(4) A winery or specialty retailer shall:

(a) ship wine only to a person who is a least 21 years of age;

(b) ship wine only to a person who has enrolled with the department;

(c) ensure all shipping containers are conspicuously labeled "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY.

(d) Ensure all shipments are made by a duly licensed carrier and that carriers comply with the requirement to obtain an adult signature.

(5) A list of wineries and specialty retailers licensed to sell wine direct as part of an exclusive wine club shall be posted on the UDABS website and updated monthly.

(6) Beginning July 1<sup>st</sup>, 2025, the commission may issue a wine club direct license to wineries and specialty retailers for the retail sale of exclusive wines to Utah citizens over the age of 21 enrolled in a wine club program and a citizen may enroll with the department.

## **SECTION 145. SECTION 32B CHAPTER 22, IS ENACTED TO READ**

### **Chapter 22**

### **Sale of State Stores, Licensing, and Commencement Dates**

## **SECTION 146. SECTION 32B CHAPTER 22, PART 1, IS ENACTED TO READ**

### **Part 1**

### **General Provisions**

## **SECTION 147. SECTION 32B-22-101 IS ENACTED TO READ**

### **32B-22-101 Definitions.**

(1) Definitions as used in this chapter.

(a)

(i) "Liquor" means a liquid that:

(A) is:

(l) alcohol;

- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and

(B)

- (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

## **SECTION 148. SECTION 32B CHAPTER 22, PART 2, IS ENACTED TO READ**

### **Part 2** **Sale of State Stores**

## **SECTION 149. SECTION 32B-22-201 IS ENACTED TO READ**

### **32B-22-201 Sale of State-Owned and Operated Liquor Stores.**

- (1) The people of the State of Utah, under this act, authorize the commission, as the governing board over the Utah Department of Alcoholic Beverage Services to:
  - (a) ascertain which state liquor stores in the areas of Ogden, Provo, Vernal, Moab, and St. George will be retained and repurposed as newly designated state warehouses;
  - (b) from the period starting April 1<sup>st</sup>, 2025, until May 31<sup>st</sup>, 2025, devote sufficient resources and retain the necessary professional services to evaluate the assets (including internal fixtures, non-fixtures, infrastructure, land, and buildings) to establish a value of each state-owned liquor store designated to be sold at auction; and
    - (i) ensure all asset sales shall have the objective of attaining the maximum reasonable worth.
  - (c) from the period starting April 1<sup>st</sup>, 2025, until May 31<sup>st</sup>, 2025, devote sufficient resources and retain the necessary professional services to evaluate the value of any assets to be sold at auction from each **leased** state liquor store, and ascertain if a lease is terminable, transferable, or may be subleased; and
    - (i) in the event that a lease cannot be subleased or is determined to be non-transferable, the commission shall terminate a state store lease and pay any penalties and fees to the lessor from the liquor control fund;
  - (d) from the period starting June 1<sup>st</sup>, 2025, thru June 30<sup>th</sup>, 2025, sell by public auction previously owned state liquor stores and the associated infrastructure within each store.
  - (e) direct all proceeds under this section, net of any sales expenses and other costs be deposited directly into the state liquor control fund.
- (2) Acquisition of ownership and the operating rights to a liquor store shall be assessed by the commission and preconditioned on the qualifications and the applicant's ability to operate a liquor store as a licensee licensed under Chapter 19, Liquor Store License Act.
- (3) A person holding the rights to own a property designated as a liquor store license shall not require the holder to apply and to obtain a license to operate under the liquor store license. A person may own the

property and rent or lease the property to another person applying for a liquor store license. A liquor store license will remain separate and independent and shall be taken into consideration by the commission.

- (4) A property previously used as a state-owned liquor store shall remain a designated liquor store site, unless the owner and/or licensee apply for relocation with the commission and proximity requirements are addressed under 32B Chapter 1, Part 2.
- (5) From the period starting June 1<sup>st</sup>, 2025, thru June 30<sup>th</sup>, 2025, the commission shall expediently review, assess, and grant liquor store licenses for the operation of a liquor store license licensed under Chapter 19, Liquor Store License Act; and
- (a) newly licensed liquor store licensees may evaluate state-owned liquor in a previously owned state liquor store and pay wholesale pricing to the department for any liquor the off-premise retail licensee wishes to retain for resale at retail pricing. All other state-owned liquor shall immediately be returned to the closest newly designated state warehouse and offered for resale at wholesale pricing.
- (6) Should the commission determine that a person(s) is disqualified from owning and/or operating a liquor store property or a license under any part of this act, any monies received from public auction for the right to own a previously state-owned property and/or operate a business as a liquor store licensee shall be returned to the person(s), and the commission shall immediately notify the public and reopen the auction.
- (7) The department shall:
- (a) retain two "state stores", # (33) and # (34) operating as "club stores" or state warehouses to supply liquor at wholesale to regional licensees.
- (b) select and retain one "state store" to be reassigned as a state warehouse located in the town of Ogden to supply liquor at wholesale to regional licensees.
- (c) select and retain one "state store" to be reassigned as a state warehouse located in the town of Provo to supply liquor at wholesale to regional licensees.
- (d) select and retain one "state store" to be reassigned as a state warehouse located in the town of St. George to supply liquor at wholesale to regional licensees.
- (e) reassign the "state store" located in Vernal as a state warehouse to supply liquor at wholesale to regional licensees.
- (f) reassign the "state store" located in Moab as a state warehouse to supply liquor at wholesale to regional licensees.
- (8) The commission shall order the closure of all state-run stores effective end of business on June 30<sup>th</sup>, 2025, and thereafter cease and desist from the retail sale of liquor.
- (9) Liquor store licenses granted by the commission under Chapter 19, Liquor Store License Act may commence business on or after July 1<sup>st</sup>, 2025.

## **SECTION 150. SECTION 32B CHAPTER 22, PART 3, IS ENACTED TO READ**

### **Part 3**

### **Package Agency Licensing and Commencement Dates**

## **SECTION 151. SECTION 32B-22-301 IS ENACTED TO READ**

### **32B-22-301 Package Agency Licensing and Commencement Dates.**

- (1) During the period of June 1<sup>st</sup>, 2025, until June 30<sup>th</sup>, 2025, current package agency agreements shall be terminated and previously run package agencies operating under an agreement with the state may file an application for a package agency license effective July 1<sup>st</sup>, 2025.
- (2) The commission shall expediently grant licenses to existing package agencies under Chapter 2, Part 6,

Package Agency License; and

- (a) existing package agents granted a license under Chapter 2, Part 6, may evaluate state-owned liquor consigned to the package agency and pay wholesale pricing to the department for liquor the package agent chooses to retain for resale at retail pricing. All other state-owned consigned liquor shall immediately be returned to the closest newly designated state warehouse and offered for resale at wholesale pricing;
- (b) existing package agents may evaluate any state-owned equipment related to the sale of consigned liquor and pay a price set by the commission for equipment they wish to retain. All other state-owned equipment shall be returned to the department in a time frame and manner set by the commission.
- (c) a property previously designated as a package agency shall remain a designated package agency site, unless the owner and/or licensee apply for relocation with the commission and proximity requirements are addressed under 32B Chapter 1, Part 2.
- (3) The commission will expediently review, assess, and grant package agency licenses for new applications at new package agency locations filed after June 1<sup>st</sup>, 2025, under Chapter 2, Part 6, Package Agency License and evaluate proximity requirements as addressed under 32B Chapter 1, Part 2.
- (4) New Package Agency Licensees may commence the retail sale of liquor starting July 1<sup>st</sup>, 2025, and future licensing and renewal dates shall be followed under Chapter 2, Part 6, Package Agency License.

**SECTION 152. SECTION 32B CHAPTER 22, PART 4, IS ENACTED TO READ**

**Part 4**

**Department Wholesale Markup Commencement Dates**

**SECTION 153. SECTION 32B-22-401 IS ENACTED TO READ**

**32B-22-401 Department Wholesale Markup Commencement Dates.**

- (1) The department shall establish a new markup of 30% on liquor sales to all licensees and permittees starting July 1<sup>st</sup>, 2025.
- (2) Existing package agencies under an agreement with the state converting to a license will be allowed to purchase liquor from the department at 30% wholesale cost after July 1<sup>st</sup>, 2025.
- (3) The department will sell all heavy beer and flavored malt beverages until totally depleted from inventory.
- (4) The department will only sell spirituous liquor and wine at wholesale pricing thereafter.