ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2012 FOURTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor:  John L. Valentine

House Sponsor:  Gage Froerer

LONG TITLE

General Description:

This bill amends provisions related to the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

• provides that four alcohol-related law enforcement officers have as a primary focus enforcement related to restaurants;
• increases the number of available licenses for full-service restaurant and limited-service restaurant licenses;
• increases certain retail license fees;
• extends the effective dates of provisions related to the transfer of retail licenses to July 1, 2013; and
• makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2013:

• to the Department of Public Safety - Programs and Operations - Highway Patrol - Special Enforcement Program as an ongoing appropriation:
  • from the General Fund, $280,000.

Other Special Clauses:

This bill provides an effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

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

Section 1. Section 32B-2-305 (Effective 07/01/12) is amended to read:

32B-2-305 (Effective 07/01/12). Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

(b) "Enforcement ratio" is as defined in Section 32B-1-201.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created a restricted 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.
The fund shall earn interest. Interest on the fund shall be deposited into the fund.

After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

Section 2. Section 32B-6-203 is amended to read:

32B-6-203. Commission's power to issue full-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a full-service restaurant license from the commission in accordance with this part.

(2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of full-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 4,925.

(b) The commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one
full-service restaurant sales location within the hotel to serve the public convenience, the
commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as
many as three full-service restaurant locations within the hotel under one full-service restaurant
license if:
(A) the hotel has a minimum of 150 guest rooms; and
(B) the locations under the full-service restaurant license are:
(I) within the same hotel; and
(II) on premises that are managed or operated, and owned or leased, by the full-service
restaurant licensee.
(ii) A facility other than a hotel shall have a separate full-service restaurant license for
each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.
(4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
full-service restaurant license for premises that do not meet the proximity requirements of
Section 32B-1-202.
(b) With respect to the premises of a full-service restaurant license issued by the
commission that undergoes a change of ownership, the commission shall waive or vary the
proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
full-service restaurant license to the new owner of the premises if:
(i) when a full-service restaurant license was issued to a previous owner, the premises
met the proximity requirements of Subsection 32B-1-202(2);
(ii) the premises has had a full-service restaurant license at all times since the
full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
and
(iii) the community location was located within the proximity requirements of
Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
Subsection (4)(b)(i) was issued.
Section 3. Section 32B-6-204 is amended to read:
32B-6-204. Specific licensing requirements for full-service restaurant license.
(1) To obtain a full-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2) (a) A full-service restaurant license expires on October 31 of each year.

(b) To renew a person's full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a full-service restaurant license is $330.

(b) The initial license fee for a full-service restaurant license is $2,200.

(c) The renewal fee for a full-service restaurant license is in the following amount:

<table>
<thead>
<tr>
<th>Gross Cost of Liquor in Previous License Year for the Licensee</th>
<th>Renewal Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>under $5,000</td>
<td>$850</td>
</tr>
<tr>
<td>equals or exceeds $5,000 but less than $10,000</td>
<td>$1,050</td>
</tr>
<tr>
<td>equals or exceeds $10,000 but less than $25,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>equals or exceeds $25,000</td>
<td>$1,750</td>
</tr>
</tbody>
</table>

(4) The bond amount required for a full-service restaurant license is the penal sum of $10,000.

Section 4. Section 32B-6-303 is amended to read:

32B-6-303. Commission's power to issue limited-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first obtain a limited-service restaurant license from the commission in accordance with this part.

(2) (a) The commission may issue a limited-service restaurant license to establish limited-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or beer on premises operated as a limited-service restaurant.

(b) A person may not sell, offer for sale, furnish, or allow the consumption of the
(i) spirituous liquor; or
(ii) a flavored malt beverage.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of limited-service restaurant licenses
that at any time exceeds the number determined by dividing the population of the state by
\[8,373\] 7,493.

(b) The commission may issue a seasonal limited-service restaurant license in
accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one
limited-service restaurant sales location within the hotel to serve the public convenience, the
commission may authorize the sale of wine, heavy beer, and beer at as many as three
limited-service restaurant locations within the hotel under one limited-service restaurant license
if:

(A) the hotel has a minimum of 150 guest rooms; and
(B) the locations under the limited-service restaurant license are:
(I) within the same hotel; and
(II) on premises that are managed or operated, and owned or leased, by the
limited-service restaurant licensee.

(ii) A facility other than a hotel shall have a separate limited-service restaurant license
for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
furnished.

(d) Except as provided in Subsection (4)(b), the commission may not issue a
limited-service restaurant license for premises that do not meet the proximity requirements of
Section 32B-1-202.

(b) With respect to the premises of a limited-service restaurant license issued by the
commission that undergoes a change of ownership, the commission shall waive or vary the
proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
Enrolled Copy

limited-service restaurant license to the new owner of the premises if:

(i) when a limited-service restaurant license was issued to a previous owner, the
premises met the proximity requirements of Subsection 32B-1-202(2);

(ii) the premises has had a limited-service restaurant license at all times since the
limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
variance; and

(iii) the community location was located within the proximity requirements of
Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
described in Subsection (4)(b)(i) was issued.

Section 5. Section 32B-6-304 is amended to read:

32B-6-304. Specific licensing requirements for limited-service restaurant license.

(1) To obtain a limited-service restaurant license a person shall comply with Chapter 5,
Part 2, Retail Licensing Process.

(2) (a) A limited-service restaurant license expires on October 31 of each year.

(b) To renew a person's limited-service restaurant license, a person shall comply with
the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
September 30.

(3) (a) The nonrefundable application fee for a limited-service restaurant license is
[$300] $330.

(b) The initial license fee for a limited-service restaurant license is [$750] $825.

(c) The renewal fee for a limited-service restaurant license is [$550] $605.

(4) The bond amount required for a limited-service restaurant license is the penal sum
of $5,000.

Section 6. Section 32B-6-904 is amended to read:

32B-6-904. Specific licensing requirements for beer-only restaurant license.

(1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part
2, Retail Licensing Process.

(2) (a) A beer-only restaurant license expires the last day of February of each year.
(b) To renew a person's beer-only restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January 31.

(3) (a) The nonrefundable application fee for a beer-only restaurant license is $330.

(b) The initial license fee for a beer-only restaurant license is $825.

(c) The renewal fee for a beer-only restaurant license is $605.

(4) The bond amount required for a beer-only restaurant license is the penal sum of $5,000.

Section 7. **Uncodified Section 110, Laws of Utah 2011, Chapter 334** is amended to read:

Section 110. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

(2) (a) The repeal of Subsection 32B-6-603(4) (Effective 07/01/11) in this bill takes effect on November 1, 2011.

(b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes effect on November 1, 2011.

(c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill takes effect on March 1, 2012.

(d) The following take effect on July 1, 2013:

(i) Section 32B-5-309 (Effective 07/01/11) as amended by this bill; and

(ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.

Section 8. **Uncodified Section 24, Laws of Utah 2012, Chapter 365** is amended to read:

Section 24. **Effective date.**

This bill takes effect on July 1, 2012, except that the amendments made to Section 32B-8a-302 (Effective 07/01/12), and Section 32B-8a-303 (Effective 07/01/12), in this bill take effect on July 1, 2013.
Section 9. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the fiscal year beginning July 1, 2012 and ending June 30, 2013. These are additions to amounts previously appropriated for fiscal year 2013.

To the Department of Public Safety - Programs and Operations - Highway Patrol

From General Fund $280,000

Schedule of Programs:

Special Enforcement $280,000

Section 10. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override, except that the amendments to Section 32B-2-305 (Effective 07/01/12) and Section 9, Appropriation, take effect on July 1, 2012.

Section 11. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the effective date in Section 32B-5-309 and Title 32B, Chapter 8a, Transfer of Retail License Act, from July 1, 2012 to July 1, 2013.