ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- modifies definitions;
- addresses new master licenses under the law enforcement quota;
- addresses the powers and duties of the commission;
- requires money be appropriated by the Legislature or provided by statute for the department to draw from the Liquor Control Fund with limited exceptions;
- clarifies who makes warrants on the funds;
- provides for Division of Finance to make year-end closing entries;
- repeals language regarding a private person conducting audits;
- requires the state auditor to perform financial audits of the department;
- requires the state auditor to distribute audits to specified individuals and entities;
- expands retail licenses eligible for conditional retail licenses and modifications for the period of a conditional retail license;
- creates a master full-service restaurant license;
- creates a master limited-service restaurant license;
- addresses guests of fraternals;
- extends the effective date for the Transfer of Retail License Act; and
- makes technical and conforming changes.
Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
32B-1-201, as last amended by Laws of Utah 2011, Chapter 334
32B-2-202, as last amended by Laws of Utah 2012, Chapter 365
32B-2-301, as last amended by Laws of Utah 2012, Chapter 357
32B-2-302, as last amended by Laws of Utah 2012, Chapter 365
32B-5-205, as enacted by Laws of Utah 2010, Chapter 276
32B-6-407, as last amended by Laws of Utah 2011, Chapter 297
32B-8a-201 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334

ENACTS:

32B-6-206, Utah Code Annotated 1953
32B-6-306, Utah Code Annotated 1953

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 7, Laws of Utah 2012, Fourth Special Session, Chapter 1
This uncodified section affects Sections 32B-5-309 (Effective 07/01/13) and the
sections in Title 32B, Chapter 8a, Transfer of Retail License Act.

Uncodified Section 8, Laws of Utah 2012, Fourth Special Session, Chapter 1

Utah Code Sections Affected by Revisor Instructions:

32B-5-309 (Superseded 07/01/13), as enacted by Laws of Utah 2010, Chapter 276
32B-5-309 (Effective 07/01/13), as last amended by Laws of Utah 2011, Chapter 334
32B-8a-101 (Effective 07/01/13), as enacted by Laws of Utah 2011, Chapter 334
Enrolled Copy

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

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 with a United States Customs office on the premises of the international 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) 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 5, Part 4, Alcohol Training and Education Act; and
(b) described in Section 62A-15-401.

(6) "Banquet" means an event:
(a) that is held at one or more designated locations approved by the commission in or on the premises of a:
(i) hotel;
(ii) resort facility;
(iii) sports center; or
(iv) convention center;
(b) for which there is a contract:
(i) between a person operating a facility listed in Subsection (6)(a) and another person;
(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and
(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) (a) "Bar" means a surface or structure:

(i) at which an alcoholic product is:

(A) stored; or

(B) dispensed; or

(ii) from which an alcoholic product is served.

(b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(8) (a) Subject to Subsection (8)(d), "beer" means a product that:

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

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

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

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (8)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.
(9) "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.

(10) "Beer retailer" means a business:

(a) that 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) to whom a license is issued:

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

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

(11) "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 in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(12) "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.

(13) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(14) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
(15) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(16) "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.

(17) "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.

(18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.
   (b) "Club license" includes:
      (i) a dining club license;
      (ii) an equity club license;
      (iii) a fraternal club license; or
      (iv) a social club license.

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

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

(21) "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.

(22) "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.

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

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(24) "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.

(25) (a) Subject to Subsection (25)(b), "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 surface or structure if on or at any point of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

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

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

(a) an auditor or inspector; and

(b) employed by the department.

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

(29) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
(30) "Director," unless the context requires otherwise, means the director of the department.

(31) "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.

(32) (a) Subject to Subsection (32)(b), "dispense" means:

(i) drawing of an alcoholic product:

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

(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises 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 (32) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

(33) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

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

(35) "Educational facility" includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.
"Equity club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.

"Event permit" means:
(a) a single event permit; or
(b) a temporary beer event permit.

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

"Flavored malt beverage" means a beverage:
(i) that contains at least .5% alcohol by volume;
(ii) that 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 as described in 27 C.F.R. Sec. 25.55;
(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

"Flavored malt beverage" is considered liquor for purposes of this title.

"Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.

"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.

"Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:
(ii) deliver; or
(iii) otherwise make available.

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

(44) "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, Physician Assistant Act.

(45) (a) "Heavy beer" means a product that:
(i) contains more than 4% alcohol by volume; and
(ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

(46) "Hotel" is as defined by the commission by rule.

(47) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(48) "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.

(49) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(50) "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.

(51) "Intoxicated" means that a person:

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

(i) an alcoholic product;

(ii) a controlled substance;

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

(iv) a combination of Subsections (51)(a)(i) through (iii); and

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

(52) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.
(53) "Invitee" is as defined in Section 32B-8-102.
(54) "License" means:
(a) a retail license;
(b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
(55) "Licensee" means a person who holds a license.
(56) "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.
(57) "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.
(58) (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.

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

(60) "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.

(61) "Local authority" means:
(a) for premises that are located in an unincorporated area of a county, the governing
body of a county; or
(b) for premises that are located in an incorporated city or a town, the governing body
of the city or town.

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

(63) "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.

(64) "Member" means an individual who, after paying regular dues, has full privileges
in an equity club licensee or fraternal club licensee.

(65) (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
394   (iii) a flood control project.
395   (66) "Minor" means an individual under the age of 21 years.
396   (67) "Nondepartment enforcement agency" means an agency that:
397   (a) (i) is a state agency other than the department; or
398   (ii) is an agency of a county, city, or town; and
399   (b) has a responsibility to enforce one or more provisions of this title.
400   (68) "Nondepartment enforcement officer" means an individual who is:
401   (a) a peace officer, examiner, or investigator; and
402   (b) employed by a nondepartment enforcement agency.
403   (69) (a) "Off-premise beer retailer" means a beer retailer who is:
404   (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
405   Authority; and
406   (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
407   premises.
408   (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
409   (70) "On-premise banquet license" means a license issued in accordance with Chapter
410   5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
411   (71) "On-premise beer retailer" means a beer retailer who is:
412   (a) authorized to sell, offer for sale, or furnish beer under a license issued in
413   accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
414   Retailer License; and
415   (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
416   premises:
417   (i) regardless of whether the beer retailer sells beer for consumption off the licensed
418   premises; and
419   (ii) on and after March 1, 2012, operating:
420   (A) as a tavern; or
421   (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
(72) "Opaque" means impenetrable to sight.

(73) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

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

(74) "Package agent" means a person who holds a package agency.

(75) "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;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

or

(h) an invitee.

(76) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(77) "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 (77)(a) through (f); or

(ii) a package agent.

(78) "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.

(79) "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.

(80) (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.

(81) (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; or
(II) in accordance with the laws of the state in which it is issued;
(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.
(82) (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.
(83) "Public conveyance" means a conveyance to which 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.

(84) "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
(84)(a) to a third party for the third party's event.

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

(86) (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.

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

(88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

(89) "Resort" is as defined in Section 32B-8-102.

(90) "Resort facility" is as defined by the commission by rule.

(91) "Resort license" means a license issued in accordance with Chapter 5, Retail
License Act, and Chapter 8, Resort License Act.

(92) "Restaurant" means a business location:
   (a) at which a variety of foods are prepared;
   (b) at which complete meals are served to the general public; and
   (c) that is engaged primarily in serving meals to the general public.
(93) "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;

[(b)] (c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

[(c)] (e) a club license;

[(d)] (f) an airport lounge license;

[(e)] (g) an on-premise banquet license;

[(f)] (h) an on-premise beer license;

[(g)] (i) a reception center license; or

[(h)] (j) a beer-only restaurant license.

(94) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

(95) "Serve" means to place an alcoholic product before an individual.

(96) (a) "School" means a building used primarily for the general education of minors.

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

(97) "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.

(98) "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 social club licensee; or
(ii) a tavern;
(c) on behalf of or at the request of the licensee described in Subsection (98)(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.
(99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
(100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.
(101) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.
(102) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.
(103) (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.
(104) "Sports center" is as defined by the commission by rule.
(105) (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.

(106) "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.

(107) "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.
(108) (a) "State store" means a facility for the sale of packaged liquor:
   (i) located on premises owned or leased by the state; and
   (ii) operated by a state employee.
(b) "State store" does not include:
   (i) a package agency;
   (ii) a licensee; or
   (iii) a permittee.
(109) (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 from which a
   person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
   Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or
   32B-6-905(12)(b)(ii).
(110) "Sublicense" is as defined in Section 32B-8-102.
(111) "Supplier" means a person who sells an alcoholic product to the department.
(112) "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.
(113) "Temporary beer event permit" means a permit issued in accordance with
   Chapter 9, Part 4, Temporary Beer Event Permit.
(114) "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.
(115) "Translucent" means a substance that allows light to pass through, but does not
   allow an object or person to be seen through the substance.
(116) "Unsaleable liquor merchandise" means a container that:
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(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 as unfit for sale.

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

(118) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

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 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)(ii) up to the nearest whole number.

(c) "Quota retail license" means:
(i) a full-service restaurant license;
(ii) a limited-service restaurant license;
(iii) a club 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 retail licenses available" means the number calculated by:
(i) determining as of a specified date for each quota 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 retail license; and
(ii) adding together the numbers determined under Subsection (1)(d)(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 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 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 stores that the commission may
establish or the number of package agencies or 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 retail license that meets the following
conditions in determining the total number of licenses available for that type of retail license
that the commission may issue at any time:
   (a) the 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 retail license in accordance
with Section 32B-6-409.

Section 3. Section 32B-2-202 is amended to read:

(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, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, 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;

(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 club license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, under which four or more sublicenses may be included;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) subject to Subsection (4), a single event permit;

(xiv) subject to Subsection (4), a temporary beer event permit;

(xv) a special use permit;

(xvi) a manufacturing license;

(xvii) a liquor warehousing license;

(xviii) a beer wholesaling license; and

(xix) 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;
(f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke [one of the
following] conditional licenses for the purchase, storage, sale, furnishing, consumption,
manufacture, and distribution of an alcoholic product[*];
[(i) a conditional full-service restaurant license; or]
[(ii) a conditional limited-service restaurant license;]
(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 prices at which liquor is sold that are the same at all state 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 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 store;
(b) issue authority to act as a package agent or operate a package agency; and
(c) issue or deny a license, permit, or certificate of approval.

(3) 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.

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

Section 4. Section 32B-2-301 is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.

(1) The following are property of the state:

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

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

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

(b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the administration of this title shall be transferred to the Liquor Control Fund.

(3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

(b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit
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revenue remitted to the State Tax Commission from the markup imposed under Section 32B-2-304 into the Markup Holding Fund.

(c) Money deposited into the Markup Holding Fund may be expended:

(i) to the extent appropriated by the Legislature; and

(ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection 32B-2-305(4).

[(4) The state treasurer shall by warrant draw from the Liquor Control Fund and, to the extent appropriated by the Legislature; from the Markup Holding Fund, the expenses, debts, and liabilities incurred by the department in connection with the administration of this title or any other expense necessary for the administration of this title, including:]

[(a) salaries;]

[(b) premiums, if any, on a bond for which the department pays premiums; and]

[(c) an expenditure incurred in establishing, operating, or maintaining a state store or package agency;]

(4) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant without an appropriation from the Liquor Control Fund for an expenditure that is directly incurred by the department:

(a) to purchase an alcoholic product;

(b) to transport an alcoholic product from the supplier to a warehouse of the department; and

(c) for variances related to an alcoholic product.

(5) The department shall transfer annually from the Liquor Control Fund and the State Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5). The transfers shall be calculated by no later than September 1 and made by no later than September 30 after a fiscal year. The Division of Finance may make year-end closing entries in the Liquor Control Fund and the Markup
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842 Holding Fund in order to comply with Subsection 51-5-6(2).

843 (6) (a) By the end of each day, the department shall:
844 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
845 (ii) report the deposit to the state treasurer.
846 (b) A commissioner or department employee is not personally liable for a loss caused
847 by the default or failure of a qualified depository.
848 (c) Money deposited in a qualified depository is entitled to the same priority of
849 payment as other public funds of the state.
850 (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
851 drawn against the Liquor Control Fund by the department, the cash resources
852 of the General Fund may be used to the extent necessary. At no time may the fund equity of
853 the Liquor Control Fund fall below zero.
854 Section 5. Section 32B-2-302 is amended to read:
855
856 32B-2-302. Exempt from Division of Finance -- Application of procurement --
857
858 External audits.
859 (1) (a) The laws that govern the Division of Finance are not applicable to the
860 department in the purchase and sale of an alcoholic product.
861 (b) The department is exempt from Title 63G, Chapter 6, Utah Procurement Code, for
862 the purchase of an alcoholic product. The department is subject to Title 63G, Chapter 6, Utah
863 Procurement Code, for any purchase other than for an alcoholic product.
864 (2) The state auditor shall:
865 (a) [select a private person to] annually perform a financial audit of the department's
866 accounts[, subject to the commission approving the private person selected to perform the
867 financial audit]; and
868 [(b) notify the governor of the private person selected to perform the financial audit;
869 and]
870 [(e)] (b) determine the scope and focus of the financial audit in an open meeting of the
871 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 6. Section 32B-5-205 is amended to read:

32B-5-205. Conditional retail license.

(1) As used in this section:

(a) "Conditional retail license" means a retail license that:

[(i) is for one of the following:]

[(A) a full-service restaurant license; or]

[(B) a limited-service restaurant license;]

[(ii) conditions the holder's ability to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises on the person submitting to the department a copy of the holder's current business license before obtaining a valid retail license; and]

[(iii) provides that the holder will be issued a valid retail license if the holder complies with the requirements of Subsection (3).]

(b) "Valid retail license" means a retail license issued pursuant to this part under which
the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises.

(2) Subject to the requirements of this section, the commission may issue a conditional retail license to a person if the person:
(a) meets the requirements to obtain the retail license for which the person is applying except the requirement to submit a copy of the person's current business license; and
(b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises before obtaining a valid retail license.

(3) (a) A conditional retail license becomes a valid retail license on the day on which the department notifies the person who holds the conditional retail license that the department finds that the person has complied with Subsection (3)(b).
(b) For a conditional retail license to become a valid retail license, a person who holds the conditional retail 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 retail license; and
(B) the person continues to qualify for the retail license.

(4) (a) A conditional retail license expires [six] nine months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a valid retail license before that day.
(b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional three months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:
(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 7. Section 32B-6-206 is enacted to read:
32B-6-206. Master full-service restaurant license.

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

(i) owns each of the full-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3) (a) A master 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.

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

(b) The initial license fee for a master full-service restaurant license is $10,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the master full-service restaurant license determined in accordance with Subsection
(c) The renewal fee for a master full-service restaurant license is $1,000 plus a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of $330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master full-service restaurant license;

(ii) individual staff of the location under the master full-service restaurant license; or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in
accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a
master full-service restaurant licensee or individual staff of the master full-service restaurant
licensee if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master full-service restaurant license
have been found by the commission to have committed a serious or grave violation of this title,
as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master full-service restaurant license
have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, to establish how a person may apply for a master full-service
restaurant license under this section.

Section 8. Section 32B-6-306 is enacted to read:

32B-6-306. Master limited-service restaurant license.

(1) (a) The commission may issue a master limited-service restaurant license that
authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an
alcoholic product on premises at multiple locations as limited-service restaurants if the person
applying for the master limited-service restaurant license:

(i) owns each of the limited-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission
that each location of a limited-service restaurant under the master limited-service restaurant
license separately meets the requirements of this part; and

(iii) the master limited-service restaurant includes at least five limited-service
restaurant locations.

(b) The person seeking a master limited-service restaurant license shall designate
which limited-service restaurant locations the person seeks to have under the master
limited-service restaurant license.

(c) A limited-service restaurant location under a master limited-service restaurant
license is considered separately licensed for purposes of this title, except as provided in this
section.

(2) A master limited-service restaurant license and each location under Subsection (1) are considered a single limited-service restaurant license for purposes of Subsection 32B-6-303(3)(a).

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

(b) To renew a person's master 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.

(4) (a) The nonrefundable application fee for a master limited-service restaurant license is $330.

(b) The initial license fee for a master limited-service restaurant license is $5,000 plus a separate initial license fee for each newly licensed limited-service restaurant license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(b).

(c) The renewal fee for a master limited-service restaurant license is $500 plus a separate renewal fee for each limited-service license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(c).

(5) A new location may be added to a master limited-service restaurant license after the master limited-service restaurant license is issued if:

(a) the master limited-service restaurant licensee pays a nonrefundable application fee of $330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master limited-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master limited-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master limited-service restaurant licensee at the time of the change; or
(ii) within 30 days of the change, if the master limited-service restaurant licensee is transferring management personnel from one location to another location covered by the master limited-service restaurant licensee.

(b) A location covered by a master limited-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master limited-service restaurant licensee may not transfer alcoholic products between different locations covered by the master limited-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master limited-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master limited-service restaurant license;

(ii) individual staff of the location under the master limited-service restaurant license;

or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master limited-service restaurant licensee or individual staff of the master limited-service restaurant license if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master limited-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master limited-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master limited-service restaurant license under this section.

Section 9. Section 32B-6-407 is amended to read:

32B-6-407. Specific operational requirements for equity club license or fraternal
club license.

(1) For purposes of this section only:

(a) "Club licensee" means an equity club licensee or fraternal club licensee.

(b) "Club licensee" does not include a dining club licensee or social club licensee.

(2) (a) A club licensee shall have a governing body that:

(i) consists of three or more members of the club; and

(ii) holds regular meetings to:

(A) review membership applications; and

(B) conduct other business as required by the bylaws or house rules of the club.

(b) (i) A club licensee shall maintain a minute book that is posted currently by the club

licensee.

(ii) The minute book required by this Subsection (2) shall contain the minutes of a

regular or special meeting of the governing body.

(3) A club licensee may admit an individual as a member only on written application

signed by the person, subject to:

(a) the person paying an application fee; and

(b) investigation, vote, and approval of a quorum of the governing body.

(4) A club licensee shall:

(a) record an admission of a member in the official minutes of a regular meeting of the

governing body; and

(b) whether approved or disapproved, file an application as a part of the official records

of the club licensee.

(5) The spouse of a member of a club licensee has the rights and privileges of the

member:

(a) to the extent permitted by the bylaws or house rules of the club licensee; and

(b) except to the extent restricted by this title.

(6) A minor child of a member of a club licensee has the rights and privileges of the

member:
(a) to the extent permitted by the bylaws or house rules of the club licensee; and
(b) except to the extent restricted by this title.

(7) A club licensee shall maintain:
(a) a current and complete membership record showing:
(i) the date of application of a proposed member;
(ii) a member's address;
(iii) the date the governing body approved a member's admission;
(iv) the date initiation fees and dues are assessed and paid; and
(v) the serial number of the membership card issued to a member;
(b) a membership list; and
(c) a current record indicating when a member is removed as a member or resigns.

(8) (a) A club licensee shall have bylaws or house rules that include provisions respecting the following:
(i) standards of eligibility for members;
(ii) limitation of members, consistent with the nature and purpose of the club;
(iii) the period for which dues are paid, and the date upon which the period expires;
(iv) provisions for removing a member from the club membership for the nonpayment of dues or other cause;
(v) provisions for guests; and
(vi) application fees and membership dues.
(b) A club licensee shall maintain a current copy of the club licensee's current bylaws and current house rules.
(c) A club licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.

(9) A club licensee may, in its discretion, allow an individual to be admitted to or use the club licensed premises as a guest subject to the following conditions:
(a) the individual is allowed to use the club licensee premises only to the extent permitted by the club licensee's bylaws or house rules;
(b) the individual shall be previously authorized by a member of the club who agrees to
host the individual as a guest into the club;

(c) the individual has only those privileges derived from the individual's host for the
duration of the individual's visit to the club licensee premises; and

(d) a club licensee or staff of the club licensee may not enter into an agreement or
arrangement with a club member to indiscriminately host a member of the general public into
the club licensee premises as a guest.

(10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club
licensed premises without a host if:

(a) (i) the club licensee is an equity club licensee; and

(ii) the individual is a member of an equity club licensee that has reciprocal guest
privileges with the equity club licensee for which the individual is a guest; or

(b) (i) the club licensee is a fraternal club licensee; and

(ii) the individual is a member of the same fraternal organization as the fraternal club
licensee for which the individual is a guest; or

(c) (i) the club licensee is a fraternal club licensee that holds the fraternal club license
on July 1, 2013;

(ii) the club licensee's bylaws permit guests in the club licensed premises without a
host except that a minor may not be admitted as a guest without a host; and

(iii) the club licensee maintains 60% of its total club business from the sale of food, not
including mix for alcoholic products, or service charges.

(11) Unless the patron is a member or guest, a club licensee may not:

(a) sell, offer for sale, or furnish an alcoholic product to the patron; or

(b) allow the patron to be admitted to or use the licensed premises.

(12) A minor may not be a member, officer, director, or trustee of a club licensee.

[(13) Public advertising related to a club licensee by the following shall clearly identify
a club as being "a club for members":]

[(a) the club licensee;]
[(b) staff of the club licensee; or]
[(c) a person under a contract or agreement with the club licensee.]

Section 10. Section 32B-8a-201 (Effective 07/01/13) is amended to read:

32B-8a-201 (Effective 07/01/13). Transferability of retail license.

(1) (a) A retail license is separate from other property of a retail licensee.

(b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the existence of any type of retail license.

(c) Except as provided in this chapter, a person may not:

(i) transfer a retail license from one location to another location; or

(ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the retail license to another person whether for monetary gain or not.

(d) If approved by the commission and subject to the requirements of this chapter, a retail licensee may transfer a retail license:

(i) from the retail licensee to another person, regardless of whether it is for the same premises; and

(ii) from one premises of the retail licensee to another premises of the retail licensee.

(2) (a) The commission may not approve the transfer of a retail license that results in a transferee holding a different type of retail license than is held by the transferor.

(b) The commission may not approve the transfer of a retail license from one location to another location, if the location of the premises to which the retail license would be transferred is in a different county than the location of the licensed premises of the retail license being transferred.

(3) The commission may not approve the transfer of a retail license if the transferee:

(a) is not eligible to hold the same type of retail license as the retail license to be transferred at the premises to which the retail license would be transferred; or

(b) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a retail license:

(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or
(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

(4) This chapter does not apply to a:

(a) master full-service restaurant license; or

(b) master limited-service restaurant license.

Section 11. **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session,**

**Chapter 1** is amended to read:

**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] 2014:

(i) Section 32B-5-309 [(Effective 07/01/11)] (Effective 07/01/13) as amended by this bill; and

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

Section 12. **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session,**

**Chapter 1** is amended to read:

**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)] (Effective 07/01/13), and Section 32B-8a-303 [(Effective 07/01/12)] (Effective 07/01/13), in this bill take effect on July 1, [2013] 2014.
Section 13. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

(2) The actions to Section 32B-8a-201 (Effective 07/01/13) take effect on July 1, 2014.

Section 14. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication do the following:

(1) change the superseding date in Section 32B-5-309 (Superseded 07/01/13) from July 1, 2013, to July 1, 2014;

(2) change the effective date in Section 32B-5-309 (Effective 07/01/13) from July 1, 2013, to July 1, 2014; and

(3) change the effective date from July 1, 2013, to July 1, 2014, in the following sections:

(a) Section 32B-8a-101 (Effective 07/01/13);

(b) Section 32B-8a-102 (Effective 07/01/13);

(c) Section 32B-8a-201 (Effective 07/01/13);

(d) Section 32B-8a-202 (Effective 07/01/13);

(e) Section 32B-8a-203 (Effective 07/01/13);

(f) Section 32B-8a-301 (Effective 07/01/13);

(g) Section 32B-8a-302 (Effective 07/01/13);

(h) Section 32B-8a-303 (Effective 07/01/13);

(i) Section 32B-8a-401 (Effective 07/01/13);

(j) Section 32B-8a-402 (Effective 07/01/13);

(k) Section 32B-8a-403 (Effective 07/01/13);

(l) Section 32B-8a-404 (Effective 07/01/13);

(m) Section 32B-8a-501 (Effective 07/01/13); and

(n) Section 32B-8a-502 (Effective 07/01/13).