

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 South 900 West • PO Box 30408 • Salt Lake City, UT 84130-0408 • (801) 977-6800 • FAX (801) 977-6888

www.abc.utah.gov

“NON-TAVERN”

“ON PREMISE BEER LICENSE”

(GROSS SALES OF BEER ARE LESS THAN 50% OF TOTAL BEER AND FOOD SALES)

APPLICATION CHECKLIST

The items below should be completed and submitted by the **10th of the month** or earlier, so that your application can be processed in a timely manner. All licensing requirements must be fully satisfied in order to complete your application. You will then be notified of the next monthly Utah Alcoholic Beverage Control Commission meeting when your application will be considered for issuance of a license.

1. ___ Completed application form (enclosed).
2. ___ Ownership entity organizational papers for business:
 - a) if a corporation, submit a copy of articles of incorporation;
 - b) if a partnership, submit a copy of written agreement;
 - c) if a limited liability company, submit a copy of articles of organization.
3. ___ Criminal history background check fingerprints, consent forms, and fees. See #19 on application.
4. ___ Evidence of proximity to schools, churches, libraries, playgrounds and/or parks. See #17 on application form.
5. ___ Copy of current local business license.
6. ___ Copy of local beer license. If not required by local authority, obtain written consent from either city/town council or county commission whichever is applicable to sell beer for on premise consumption (form enclosed).
7. ___ **\$5,000** cash or corporate surety bond (form enclosed).
8. ___ **Certificate** of insurance for public liability and liquor liability “dram shop” coverage (liquor liability minimum coverage is \$1,000,000 per occurrence/\$2,000,000 in the aggregate.)
9. ___ Scaled floor plan (8-1/2" x 11") of your retail beer facility, highlighting areas for storage, sale and consumption of beer.
10. ___ **\$300** application fee (non-refundable).
11. ___ **\$300** initial license fee for period ending last day of February (make checks payable to UDABC)
12. ___ Food and Beer menu.

Enclosed are copies of Utah law and rules of the commission pertaining to on-premise beer licensees, and a list of factors considered in the evaluation of license applications. If you have questions concerning these forms or the application process, please contact our Licensing and Compliance Division at (801) 977-6800.

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
APPLICATION FOR
"NON-TAVERN"
ON-PREMISE BEER LICENSE**

1. Business name: _____
2. Applicant/owner of business: _____
3. Location: _____

Street	City	State	Zip
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4. Mailing address: _____

Street	P.O. Box	City	State	Zip
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5. Business phone: _____ Other phone: _____ Fax: _____
6. Manager: _____ DOB: _____ SS#: _____ DL#: _____
7. Contact person: _____ E-mail: _____
8. Owner of real property & building: _____
9. List name of previous business at this location: _____
10. List other alcoholic beverage licenses previously and/or currently held by applicant/principals:

11. Date opened for business: _____ (or projection): _____
12. Days and hours of operation: _____
13. Total seating capacity: _____ Number of parking stalls: _____
14. Square footage of facility: _____
- 15a. Average/projected monthly food & beverage sales: _____
- 15b. Projected monthly alcohol sales: _____
16. Describe type of entertainment, if any: _____
17. List any private or public schools, churches, public libraries, public playgrounds or parks located within 600' of your premises. See Utah Code Sections See Utah Code 32B-1-202 as to how proximity is determined and measured and for an explanation on variances.
http://le.utah.gov/~code/TITLE32B/htm/32B01_020200.htm

Property	Address	Measured Distance
_____	_____	_____
_____	_____	_____

18. Ownership: Check appropriate box and provide the requested information in the spaces below.
(add additional sheets if necessary)

- Applicant is an **individual:** List below information for: (a) Individual
(b) All Managers
- Applicant is a **partnership:** List below information for: (a) All Partners
(b) All Managers
- Applicant is a **corporation:** List below information for: (a) Any Stockholders owning at least 20% of the corporation
(b) All Corporate officers and Directors
(c) All Managers
- Applicant is a **limited liability company (LLC):**
List below information for: (a) Any members owning a least 20% of the company
(b) All Managers

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE # _____ DR LIC # _____ SS # _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____
HOME PHONE # _____ DR LIC # _____ SS # _____ DOB _____ % OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

19. Criminal Convictions. The law prohibits any person who has been convicted of a felony under any federal or state law or any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages from being in the alcoholic beverage business. The law also prohibits any person who has been convicted of any crime involving moral turpitude or, on two or more occasions within the last five years, has been convicted of driving under the influence of alcohol, any drug, or the combination of alcohol and any drug from being in the alcoholic beverage business. This proscription also applies to any officers, partners, managers, managing agents, directors, stockholders who hold at least 20% of the total issued and outstanding stock of an applicant corporation, members who own at least 20% of an applicant limited liability company and to any person employed to act in a supervisory or managerial capacity.

Please list *all* criminal offenses *other than minor traffic offenses* of which you or any of the above persons have ever been convicted:

NAME	CRIMINAL OFFENSE	DATE OF CONVICTION
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In addition, a criminal history background check must be furnished on each person listed above and in subparagraph 18. This may be done as follows:

a. Utah residents: If any person listed has been a **resident of Utah for at least two years**, he/she shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification.

b. Non Residents: Out of state residents or persons who have resided in Utah for less than two years shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the **Federal Bureau of Investigation (F.B.I).**

Fingerprint cards are available at law enforcement agencies. You may download the fingerprint card at this web address: <http://www.fbi.gov/hq/cjisd/pdf/fpcardb.pdf>

Submit the form(s) to the DABC with a processing fee of:

- \$20.00 per card for BCI background checks, or
- \$39.25 per card for FBI background checks.

In the case of an undue delay in the processing of a B.C.I or F.B.I. criminal background check, here are the rules and procedures for obtaining a third-party national background check: An application that requires a B.C.I or F.B.I. criminal history background report(s) may be included on a commission meeting agenda, and may be considered by the commission for issuance of a license, permit, or package agency if:

- 1). the applicant has completed all requirements to apply for the license, permit, or package agency other than the department receiving the B.C.I or F.B.I. criminal history background report(s);
- 2). the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in the application that would disqualify the applicant from applying for and holding the license, permit, or package agency;
- 3). the applicant has submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the B.C.I. or F.B.I.
- 4). the applicant at the time of application supplies the department with a current criminal history background report conducted by a third-party background check reporting service on any person for which an F.B.I. background check is required; and
- 5). the applicant stipulates in writing that if a B.C.I. or F.B.I. report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the department.

A suggested attestation/stipulation letter that satisfies the above requirements is enclosed.

A third-party national criminal background check can be obtained by;

- searching the yellow pages under Background Screening
- searching the internet under Background Screening or Background Checks

Because the DABC is State Agency, we cannot recommend any one background screening service over another. It is your responsibility however, to obtain the most complete, nationwide, criminal history available for the application process.

- 20.** Applicant agrees to immediately notify the department of any change in ownership, management, and if a corporation, any change in the officers/directors, and understands that failure to do so may result in immediate suspension of license.
- 21.** Have you as an applicant, or any proprietor, partner, managing agent, director, officer, stockholder owning at least 20% corporation stock, or if a limited liability company, any member owning at least 20% of the company, had a state alcoholic beverage license, permit, or agency revoked within the last three years? _____ If so please explain.

22. By signing below, the applicant attests that:
a) the applicant is in compliance with all federal and state laws pertaining to the payment of taxes and contributions to unemployment and insurance funds. The following are tax identification numbers of the business.

- i. State Sales Tax #: _____
- ii. State Payroll Withholding Tax #: _____
- iii. State Dept. of Workforce Services #: _____
- iv. Federal Taxpayer Identification #: _____

b) the proprietor/applicant is at least 21 years of age.

c) consent is granted to representatives of the Alcoholic Beverage Control Department, Commission, State Bureau of Investigation (Bureau of Alcoholic Beverage Law Enforcement), and other law enforcement agencies to be admitted immediately and permitted without hindrance or delay to inspect the entire premises and all records of the licensee.

d) he/she has read and will abide by the provisions of Title 32B, Utah Code, and all rules of the commission and directives of the Department of Alcoholic Beverage Control; and understands that failure to adhere thereto or to no longer possess the qualifications of a licensee may result in suspension or revocation of the license and forfeiture of compliance bond.

e) the applicant does not and will not discriminate against persons on the basis of race, color, sex, religion, ancestry, or national origin.

f) no person in the alcoholic beverage industry (winery, brewery, distillery, importer, supplier, wholesaler, bottler, or warehouser) holds a partial interest in the ownership of the retail business or in the real or personal property owned, occupied, or used by the applicant in the conduct of the applicant's business.

23. The undersigned acknowledges that he/she has read and understands the statements made herein, and that execution hereof is done voluntarily and by authorization of the applicant/organization, and that any false statement made on this application or any related document is a second degree felony.

24. The undersigned hereby makes application to the Utah Alcoholic Beverage Control Commission for a non-tavern on-premise beer license and certifies that the information contained herein and attached hereto is true and correct.

Dated this _____ day of _____, _____

Applicant/owner of business

Authorized signature

Name/title

STATE OF _____

COUNTY OF _____

Subscribed & sworn to before me this _____
day of _____, _____.

Notary Public

SEAL:

“ON-PREMISE (Non-Tavern) BEER LICENSE”

LOCAL CONSENT

Date: _____

Attn: DABC Licensing & Compliance Section

_____, [] City [] Town [] County

hereby grants its consent to the issuance of an on-premise beer (non-tavern) retailer license to:

Business Name: _____

Applicant / Business Owner: _____

Location Address: _____

Pursuant to the provisions of Utah Code 32B-5-201 and 32B-6-705 and 706, this license allows for the storage, sale and consumption of beer on the premises.

Check if applicable

LOCAL CONSENT FOR PROXIMITY VARIANCE

In accordance with Utah Code 32B-1-202, the local authority also grants consent to a variance regarding the proximity of this establishment relative to a public or private school, church, public library, public playground, or park.

Authorized Signature

Print Name / Title

This is a suggested form. A city, town, or county’s own form is acceptable.
Local consent may be faxed to the DABC at 801-977-6889 or mailed to:
Department of Alcoholic Beverage Control
PO Box 30408
Salt Lake City, UT 84130-0408

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
ON-PREMISE NON-TAVERN BEER LICENSE APPLICATION**

EVALUATION FACTORS

The Alcoholic Beverage Control Department and Commission utilize factors for evaluating an on-premise beer (non-tavern) license application including, but not limited to:

1. Location factors such as:
 - proximity to and density of other alcoholic beverage outlets in the area,
 - traffic flow,
 - demographics,
 - population to be served,
 - proximity to any educational, religious and recreational facilities such as public schools, nursery schools, infant day care centers, trade and technical schools, churches, public libraries, public playgrounds, and parks.

2. Physical characteristics such as:
 - condition of the premises,
 - square footage,
 - seating capacity,
 - parking availability.

3. Management experience:
 - familiarity with alcoholic beverage operations,
 - familiarity with financial record keeping,
 - management scheme employed by the beer retailer,
 - length of time in operation,
 - past compliance with alcoholic beverage laws and rules.

4. Nature or type of beer retailer operation.
 - golf course
 - bowling alley
 - performance hall
 - other

5. Public input.

Note: Keep this sheet and refer to it for presentation before the ABC Commission.

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1625 S 900 W • PO Box 30408 • Salt Lake City, UT 84130-0408 • Phone (801) 977-6800 • Fax (801) 977-6889

“ON-PREMISE BEER BOND”

BOND# _____

KNOW ALL PERSONS BY THESE PRESENTS:

That **Principal**, _____, an on-premise beer licensee, doing business as _____, and **Surety**, _____, a corporation organized and existing under the laws of the state of _____ and authorized to do business in Utah, are held and bound unto the Utah Department of Alcoholic Beverage Control in the sum of **\$5,000**, for which payment will be made, we hereby bind ourselves and our representatives, assigns, and successors firmly by these presents.

Dated this _____ day of _____, _____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above principal has made application to the Utah Alcoholic Beverage Control Commission for an on-premise beer license pursuant to the provisions of 32B-5-204, Utah Code.

NOW, THEREFORE, if said principal, its officers, agents and employees shall faithfully comply with the provisions of Title 32B, Utah Code, and the rules and directives of the Utah Alcoholic Beverage Control Commission and the Utah Department of Alcoholic Beverage Control, then this bond shall be void; but, if said principal, its officers, agents and employees fail to comply with the provisions of the laws, rules and directives or orders as the commission or department may issue, then this bond shall be in full force and effect and payable to the Utah Department of Alcoholic Beverage Control. This bond shall run for a continuing term effective _____ unless canceled by service of written notice upon the Utah Department of Alcoholic Beverage Control, which cancellation shall be effective 30 days after receipt of such notice; provided however, that no part of this bond shall be withdrawn or canceled while violations, legal actions or proceedings are pending against said licensee / principal.

Surety

Principal / Licensee

Attorney in fact

Authorized signature

{ *Corporate Seal* }

Name / Title

STATUTORY AFFIDAVIT FOR CORPORATE SURETY

STATE OF: _____

COUNTY OF: _____

On the _____ day of _____, _____, personally appeared before me, _____, who, being by me duly sworn, did say that he / she is the attorney in fact of _____, **Surety**, and that said instrument was signed in behalf of said surety by authority, and acknowledged to me that he / she as such attorney in fact executed the same.

Notary Public Signature & Seal

Note: Corporate surety's own affidavit also acceptable

(suggested attestation/stipulation letter to the DABC)

Date: _____

To whom it may concern:

I, _____, attest:

- 1. That I have submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s).**
- 2. That I am not aware of any criminal conviction that would disqualify me from applying for and holding a Utah Department of Alcoholic Beverage Control license or permit.**

I stipulate that if a criminal history report shows a criminal conviction that would disqualify me from holding the license, permit, or package agency, I shall immediately surrender the license, permit, or package agency to the department.

I am enclosing a national criminal history background report from a third party background check reporting service.

Signature

Name/Title

INFORMED CONSENT AND RELEASE OF LIABILITY

PURPOSE: To determine, in accordance with Utah Code 32B-1-305, 306, and 307, if an applicant with the Department of Alcoholic Beverage Control has been:

- convicted of a felony under federal or state law;
- convicted of a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, or transportation of an alcoholic beverage;
- convicted of a crime involving moral turpitude;
- convicted on two or more occasions within the previous five years, driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug.

RELEASE

I hereby authorize the Department of Alcoholic Beverage Control (DABC) to investigate my criminal history records to ascertain any and all information which may be pertinent to my qualifications as an applicant with the DABC. The release of any and all information is authorized whether it is of record or not, and I do hereby release all persons, firms, agencies, companies, groups or installations, whomsoever, from any damages of or resulting from, furnishing such information to the DABC. I further agree that a copy of this release will remain in my application file.

Name (please print; last, first, middle initial) _____ / _____
Driver License# or ID card# / state issued

Formerly used last names (please print) _____
Name of Business

Signature _____
Date

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

P.O. Box 30408 • Salt Lake City, UT 84130-0408 • Ph: 801-977-6800 • Fax: 801-977-6889
website: www.abc.utah.gov

On-Premise Beer License Summary (for retailers that are not taverns)

Note: This is general information only and should not be considered conclusive. For further detail, please *consult Title 32B of the Utah Code* (<http://le.utah.gov/UtahCode/chapter.jsp?code=32B>) or the *Rules of the Commission* (<http://www.rules.utah.gov/publicat/code/r081/r081.htm>)

A state on-premise beer retailer license allows the sale of beer at retail for on-premise consumption. These establishments include restaurants, cafes, bowling center or golf course food and beverage facilities, snack bars, etc. Special licensing conditions apply to on-premise beer retailers who are *taverns* (see separate Tavern License Summary). Liquor, wine, heavy beer, and flavored malt beverages may not be stored or sold on the premises of an on-premise beer retailer.

Licenses run from March 1 to the last day of February. For on-premise beer retailers that are *not* taverns, there is no quota and the commission may issue licenses at places and in numbers it considers proper. Only one state beer license is required for each building or resort facility owned or leased by the same applicant. The state license is in addition to any beer license required by a local government.

Purchases of Beer

- The on-premise retailer must purchase, acquire, possess for resale, or sell beer that has been lawfully purchased from a Utah wholesaler who is authorized to sell beer in the geographical area in which the beer retailer is located, or from a small brewer (manufactures less than 60,000 barrels per year).

Sale and Service of Beer

- Beer may be sold and served in open containers in any size not exceeding 2 liters and on draft. Beer may be sold to an individual patron only in a container that does not exceed one liter. Beer may be sold by the pitcher (larger than one liter and up to two liters) to two or more patrons.
- Beer sold in sealed containers may be removed from the beer retailer's premise.

Sales and Consumption Hours

- Beer may be sold from 10 a.m. until 1 a.m.
- *Hours of Consumption:*  No consumption of beer is allowed on the premises after 2 a.m. and before 10:00 a.m.

Discounting Practices Prohibited

-  Beer may not be sold at a discount at any time.
- Discounting practices are prohibited that encourage over-consumption of beer (i.e. reduced or special prices for certain hours of the day, "happy hours", "two for ones", "all you can drink for a set price", free beer, or selling at less than cost).
- A beer licensee or employee may not purchase an alcoholic beverage for a patron.

Consumption on the Premises

- An open container primarily used for drinking purposes and containing beer may not be removed from the premises.

Minors

- Minors may be employed by an on-premise beer retailer, but may not sell, dispense, or furnish beer.
- Minors may work at a cash register to ring up the sale of beer.

Employees

- Any employee who sells, serves, dispenses, or handles beer must be twenty one years of age or older.
- Employees may not consume or be under the influence of alcoholic beverages while on duty.
- Servers of alcohol must wear a unique identification badge showing the employee's first name, initials, or a number assigned by the employer.
- Managers, supervisors, and employees who serve alcohol must take and pass an alcohol server training seminar every three years and must complete the training within 30 days of commencing employment.

Employee Fines

- The commission is authorized to assess an administrative fine against an officer, employee, or agent of a licensee for a violation of the alcoholic beverage laws.

“Brown Bagging”

- Patrons may not bring in or store alcoholic beverages on the premises.

Advertising

- Beer advertising must comply with the guidelines in Rule R81-1-17 which may be viewed at: <http://www.rules.utah.gov/publicat/code/r081/r081-01.htm#T16>

Warning sign

- Each on-premise beer retailer licensee shall display, in a prominent place, a sign no smaller than eight and one half inches high by eleven inches wide stating: *“WARNING - Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child. Call the Utah Department of Health at 1-800-822-2229 with questions or for more information. Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”* The two warning messages shall be in the same font size but different font styles that are no smaller than 36 point bold. The font size for the health department contact information shall be no smaller than 20 point bold.

Prohibited Conduct

- Lewd acts, attire, and sexually oriented conduct of employees and entertainers that are considered contrary to public welfare and morals are prohibited on the premises. See Utah Code Section 32B-1-501 through 506 which may be viewed at: <http://www.le.utah.gov/UtahCode/section.jsp?code=32B-1>
- Gambling – Licensees may not engage in or permit any form of gambling on its premises.
- Illegal drugs or drug paraphernalia - A retail licensee may not knowingly allow a person on the licensed premises to sell, distribute, possess, or use a controlled substance; or use, deliver, or possess with the intent to deliver drug paraphernalia. See Utah Code Section 32B-5-301(5) which may be viewed at: http://le.utah.gov/~code/TITLE32B/htm/32B05_030100.htm

TITLE 32B – ALCOHOLIC BEVERAGE CONTROL ACT
(Updated through July 1, 2011)

Chapter 5 – Retail License Act

CHAPTER 5
RETAIL LICENSING ACT
Effective July 1, 2011

Part 1
General Provisions

32B-5-101. Title.

This chapter is known as the "Retail License Act."

32B-5-102. Definitions.

Reserved

Part 2
Retail Licensing Process

32B-5-201. Application requirements for retail license.

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

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

(b) a nonrefundable application fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority;

(e) a copy of the person's current business license;

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

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee is carrying dramshop insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the retail licensee;

(l) 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

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

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail License Act, the commission may not issue a retail license to a person if the licensed premises does not meet the proximity requirements of Section 32B-1-202.

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant part under Chapter 6, Specific Retail License Act, for that type of retail license.

(2) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed, submit:

(a) a completed renewal application to the department in a form prescribed by the department; and

(b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the date the existing retail license expires.

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 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 part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the locality within which the proposed licensed premises is located, including:

(i) physical characteristics such as:

(A) condition of the licensed 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, 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 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;
- (e) consider the nature or type of retail licensee operation of the proposed retail licensee, including:
 - (i) the type of menu items that will be offered and emphasized;
 - (ii) whether the retail licensee 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.

32B-5-204. Bond for retail license.

- (1) (a) A retail licensee shall post a cash bond or surety bond:
 - (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license for which the person is applying; and
 - (ii) payable to the department.
 (b) A retail licensee shall procure and maintain the bond required under this section for as long as the retail licensee continues to operate as a retail licensee.
- (2) A bond required under this section shall be:
 - (a) in a form approved by the attorney general; and
 - (b) conditioned upon the retail licensee's faithful compliance with this title and the rules of the commission.
- (3) (a) If a surety bond posted by a retail licensee under this section is canceled due to the retail licensee's negligence, the department may assess a \$300 reinstatement fee.
 (b) No part of a bond posted by a retail licensee under this section may be withdrawn:
 - (i) during the period the retail license is in effect; or
 - (ii) while a revocation proceeding is pending against the retail licensee.
- (4) (a) A bond posted under this section by a retail licensee may be forfeited if the retail license is revoked.
 (b) Notwithstanding Subsection (4)(a), the department may make a claim against a bond posted by a retail licensee for money owed the department under this title without the commission first revoking the retail license.

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 conditional retail license expires six 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.

32B-5-206. Seasonal retail license.

(1) If authorized in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license, the commission may in accordance with this section issue a seasonal retail license located in an area the commission considers proper.

(2) (a) A seasonal retail license shall be for a period of six consecutive months.

(b) A seasonal retail license issued for operation during a summer time period is known as a "Seasonal A" retail license. The period of operation for a Seasonal A retail license:

(i) begins on May 1; and

(ii) ends on October 31.

(c) A seasonal retail license issued for operation during a winter time period is known as a "Seasonal B" retail license. The period of operation for a Seasonal B retail license:

(i) begins on November 1; and

(ii) ends on April 30.

(3) In determining the number of each type of retail license that the commission may issue under the relevant part under Chapter 6, Specific Retail License Act:

(a) a seasonal retail license is counted as one-half of one retail license of the specific type of retail license; and

(b) each Seasonal A retail license shall be paired with a Seasonal B retail license of the same type of retail license.

Part 3 Retail Licensing Operational Requirements

32B-5-301. General operational requirements.

(1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license.

(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 retail licensee;

(ii) individual staff of a retail licensee; or

(iii) both a retail licensee and staff of the retail licensee.

(2) (a) If there is a conflict between this part and the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license, the relevant part under Chapter 6 governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant

part under Chapter 6, Specific Retail License Act.

(c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail License Act, refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place 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 retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

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

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

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

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

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

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

32B-5-302. Recordkeeping.

- (1) A retail licensee shall make and maintain a record showing in detail:
 - (a) quarterly expenditures made separately for:
 - (i) malt or brewed beverages;
 - (ii) liquor;
 - (iii) set-ups;
 - (iv) food; and
 - (v) any other item required by the department; and
 - (b) sales made separately for:
 - (i) malt or brewed beverages;
 - (ii) set-ups;
 - (iii) food; and
 - (iv) any other item required by the department.
- (2) A retail 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 retail 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 retail licensee shall make and maintain any other record the department may require.
- (5) (a) A record of a retail licensee is subject to inspection by an authorized representative of the commission and the department.
 - (b) A retail licensee shall allow the department, through an auditor or examiner of the department, to audit the records of the retail 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.

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.
 - (b) A retail licensee may transport liquor purchased from a state store or package agency 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 except beer that the retail licensee purchases from:
 - (A) a beer wholesaler licensee; or
 - (B) a small brewer that manufactures the beer.
- (ii) Violation of this Subsection (2)(a) is a class A misdemeanor.
 - (b) (i) If a retail licensee purchases beer under Subsection (2)(a) from a beer wholesaler licensee, the retail licensee shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer 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 other than those hours and days when liquor sales are authorized by law.

32B-5-304. Portions in which alcoholic product may be sold.

(1) A retail licensee may sell, offer for sale, or furnish 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, except that:

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

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

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

(iii) the retail licensee shall designate a location where flavorings are stored on the floor plan submitted to the department; and

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

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on a dessert; and

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

(c) 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.

(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) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(i) in an open original container; and

(ii) in a container on draft.

(b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

(i) in a size of container that exceeds two liters; or

(ii) to an individual patron in a size of container that exceeds one liter.

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 price fixed by the commission.

(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 the 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 over consumption 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.

32B-5-306. Purchasing or selling alcoholic product.

(1) A retail 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.

(2) (a) A patron may only purchase an alcoholic product in the licensed premises of a retail licensee from and be served by an individual who is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(b) An individual may sell, offer for sale, or furnish an alcoholic product to a patron only if the individual is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(c) Notwithstanding Subsection (2)(a) or (b), a patron who purchases bottled wine from staff of the retail licensee or carries bottled wine onto the retail licensee's premises pursuant to Section 32B-5-307 may thereafter serve wine from the bottle to the patron or others at the patron's table.

(3) The following may not purchase an alcoholic product for a patron:

(a) a retail licensee; or

(b) staff of a retail licensee.

32B-5-307. Bringing onto or removing alcoholic product from premises.

(1) Except as provided in Subsection (3):

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

(b) A retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee.

(2) Except as provided in Subsection (3):

(a) A person may not carry from a licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product.

(b) A retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a).

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

- (i) permitted by the retail licensee; and
 - (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.
- (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.
- (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3).
- (d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased in the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

32B-5-308. Requirements on staff or others on premises -- Employing a minor.

- (1) Staff of a retail licensee, while on duty, may not:
- (a) consume an alcoholic product; or
 - (b) be intoxicated.
- (2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or dispense an alcoholic product.
- (b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions related to the specific type of retail license, a retail licensee may employ a minor who is at least 16 years of age to enter the sale at a cash register or other sales recording device.

32B-5-309 (Superseded 07/01/12). Ceasing operation -- Prohibiting transfer of license.

- (1) (a) Except as provided in Subsection (1)(h), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:
- (i) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and
 - (ii) the closure or cessation of operation is first approved by the department.
- (b) Notwithstanding Subsection (1)(a), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.
- (c) (i) The department may authorize a closure or cessation of operation of a retail licensee for a period not to exceed 60 days.
- (ii) The department may extend the initial period an additional 30 days upon:
 - (A) written request of the retail licensee; and
 - (B) a showing of good cause.
- (d) A closure or cessation of operation may not exceed a total of 90 days without commission approval.
- (e) A notice required under this Subsection (1) 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 retail licensee will reopen or resume operation.
- (f) Failure of a retail licensee to provide notice and to obtain department approval before closure or cessation of operation results in an automatic forfeiture of:
- (i) the retail license; and
 - (ii) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.
- (g) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:
- (i) the retail license; and
 - (ii) the unused portion of the retail license fee for the remainder of the retail license year.
- (h) This Subsection (1) does not apply to:
- (i) an on-premise beer retailer who is not a tavern; or
 - (ii) an airport lounge licensee.

- (2) A retail licensee may not transfer a retail license from one location to another location, without prior written

approval of the commission.

- (3) (a) A person, having been issued a retail license may not 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.
(b) A retail license has no monetary value for any type of disposition.

32B-5-310. Notifying department of change in ownership.

The commission may suspend or revoke a retail license if the retail licensee does not immediately notify the department of a change in:

- (1) ownership of the premises of the retail license;
- (2) for a corporate owner, the:
(a) corporate officers or directors of the retail licensee; or
(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (3) for a limited liability company:
(a) managers of the limited liability company; or
(b) members owning at least 20% of the limited liability company.

Part 4
Alcohol Training and Education Act

32B-5-401. Title.

This part is known as the "Alcohol Training and Education Act."

32B-5-402. Definitions.

Reserved

32B-5-403. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

- (1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol training and education seminar:
(a) an individual who manages operations at the licensed premises for consumption on the licensed premises;
(b) an individual who supervises the furnishing of an alcoholic product to a patron for consumption on the licensed premises; or
(c) an individual who serves an alcoholic product to a patron for consumption on the licensed premises.
- (2) A city, town, or county in which a retail licensee conducts its business may suspend, revoke, or not renew the business license of the retail licensee if an individual described in Subsection (1) fails to complete an alcohol training and education seminar.
- (3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar, an individual who:
(a) directly supervises the sale of beer to a patron for consumption off the premises of the off-premise beer retailer; or
(b) sells beer to a patron for consumption off the premises of the off-premise beer retailer.

32B-5-404. Alcohol training and education for off-premise consumption.

(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer 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), an individual who:

(i) directly supervises the sale of beer to a patron for consumption off the premises of the off-premise beer retailer; or

(ii) sells beer to a patron for consumption off the premises of the off-premise beer retailer.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer 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 within 30 days of the day on which the individual becomes staff of an off-premise beer retailer.

(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.

(2) In accordance with Section 32B-5-403, a local authority may immediately suspend the license of an off-premise beer retailer that allows staff to directly supervise the sale of beer or to sell beer to a patron without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).

**CHAPTER 6
SPECIFIC RETAIL LICENSE ACT**

**Part 7
On-Premise Beer Retailer License**

32B 6 701. Title.

This part is known as "On premise Beer Retailer License."

32B 6 702. Definitions.

As used in this part, "recreational amenity" is defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this section shall define "recreational amenity" to be one or more of the following or an activity substantially similar to one of the following:

- (1) a billiard parlor;
- (2) a pool parlor;
- (3) a bowling facility;
- (4) a golf course;
- (5) miniature golf;
- (6) a golf driving range;
- (7) a tennis club;
- (8) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;
- (9) a concert venue that has a seating capacity equal to or greater than 6,500;
- (10) one of the following if owned by a government agency:
 - (a) a convention center;
 - (b) a fair facility;
 - (c) an equestrian park;
 - (d) a theater; or
 - (e) a concert venue;
- (11) an amusement park:
 - (a) with one or more permanent amusement rides; and
 - (b) located on at least 50 acres;
- (12) a ski resort;
- (13) a venue for live entertainment if the venue:
 - (a) is not regularly open for more than five hours on any day;
 - (b) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and
 - (c) is operated so that no more than 15% of its total annual receipts are from the sale of beer; or

(14) concessions operated within the boundary of a park administered by the:

- (a) Division of Parks and Recreation; or
- (b) National Parks Service.

32B 6 703. Commission's power to issue on premise beer retailer license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on the premises as an on premise beer retailer, the person shall first obtain an on premise beer retailer license from the commission in accordance with this part.

(2) (a) The commission may issue an on premise beer retailer license to establish on premise beer retailer licensed premises at places and in numbers as the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as an on premise beer retailer.

(b) At the time that the commission issues an on premise beer retailer license, the commission shall designate whether the on premise beer retailer is a tavern.

(c) The commission may change its designation of whether an on premise beer retailer is a tavern in accordance with rules made by the commission.

(d) (i) In determining whether an on premise beer retailer is a tavern, the commission shall determine whether the on premise beer retailer will engage primarily in the retail sale of beer for consumption on the establishment's premises.

(ii) In making a determination under this Subsection (2)(d), the commission shall consider:

(A) whether the on premise beer retailer will operate as one of the following:

- (I) a beer bar;
- (II) a parlor;
- (III) a lounge;
- (IV) a cabaret; or
- (V) a nightclub;

(B) if the on premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

(I) whether the on premise beer retailer will sell food in the establishment; and

(II) if the on premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;

(C) whether full meals including appetizers, main courses, and desserts will be served;

(D) the square footage and seating capacity of the premises;

(E) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

(F) whether the person will maintain adequate on premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and

(H) the beer retailer management's ability to manage and operate an on premise beer retailer license including:

- (I) management experience;
- (II) past beer retailer management experience; and
- (III) the type of management scheme that will be used by the beer retailer.

(e) On or after March 1, 2012:

(i) To be licensed as an on premise beer retailer that is not a tavern, a person shall:

(A)

maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer; or

(B) have a recreational amenity on or directly adjoining the licensed premises of the beer retailer and maintain at least 70% of the person's total gross revenues from the sale of food.

(ii) The commission may not license a person as an on premise beer retailer if the person does not:

(A) meet the requirements of Subsection (2)(e)(i); or

(B) operate as a tavern.

(iii) (A) A person licensed as an on premise beer retailer that is not a tavern as of July 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1, 2012, the person will seek to be licensed as a beer only restaurant licensee, a tavern, or an on premise beer retailer that meets the requirements of Subsection (2)(e)(i).

(B) If an on premise beer retailer fails to notify the department as required by Subsection (2)(e)(iii)(A), the on premise beer retailer's license expires as of February 29, 2012, and to operate as an on premise beer retailer after February 29, 2012, the on premise beer retailer is required to apply as a new licensee, and any bar or bar structure on the

premises of an on premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i) will not be grandfathered under Subsection 32B 6 902(1).

(iv) A person who, after August 1, 2011, applies for an on premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B 6 905(12)(a)(ii).

(3) Subject to Section 32B 1 201:

(a) The commission may not issue a total number of on premise beer retailer licenses that are taverns that at any time exceeds the number determined by dividing the population of the state by 54,147.

(b) The commission may issue a seasonal on premise beer retailer license for a tavern in accordance with Section 32B 5 206.

(4) (a) Unless otherwise provided in Subsection (4)(b):

(i) only one on premise beer retailer license is required for each building or resort facility owned or leased by the same person; and

(ii) a separate license is not required for each retail beer dispensing location in the same building or on the same resort premises owned or operated by the same person.

(b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the building or resort facility operates in the same manner.

(ii) If each retail beer dispensing location does not operate in the same manner:

(A) one on premise beer retailer license designated as a tavern is required for the locations in the same building or on the same resort premises that operate as a tavern; and

(B) one on premise beer retailer license is required for the locations in the same building or on the same resort premises that do not operate as a tavern.

32B 6 704. Local authority to issue a license.

(1) A local authority may issue a license to operate as an on premise beer retailer, subject to:

(a) the requirement under this part that a person obtain an on premise beer retailer license issued by the commission to operate as an on premise beer retailer; and

(b) subject to Title 11, Chapter 10, Businesses Allowing Consumption of an Alcoholic Product on Premises.

(2) For a violation of this title, rules of the commission, or a local ordinance, a local authority may suspend or revoke a business license described in Subsection (1).

(3) (a) If the commission suspends or revokes an on premise beer retailer license issued by the commission under this title, the on premise beer retailer may not continue to operate under a license issued by a local authority.

(b) If a local authority suspends or revokes a business license described in Subsection (1), an on premise beer retailer may not continue to operate under the on premise beer retailer license issued by the commission.

(4) A person issued a business license issued by a local authority as described in Subsection (1) shall comply with this title, including a provision related to the storage, sale, offer for sale, furnishing, consumption, warehousing, or distribution of beer.

32B 6 705. Specific licensing requirements for on premise beer retailer license.

(1) To obtain an on premise beer retailer license a person shall comply with Chapter 5, Part 2, Retail Licensing Process, except that an on premise beer retailer is required to carry dramshop insurance coverage in accordance with Section 32B 5 201 only if the on premise beer retailer sells more than \$5,000 of beer annually.

(2) (a) An on premise beer retailer license expires on the last day of February each year.

(b) To renew a person's on premise beer retailer 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 an on premise beer retailer license is \$300.

(b) (i) The initial license fee for an on premise beer retailer license that is not a tavern is \$300.

(ii) The initial license fee for an on premise beer retailer license that is a tavern is \$1,500.

(c) (i) The renewal fee for an on premise beer retailer license that is not a tavern is \$350.

(ii) The renewal fee for an on premise beer retailer license that is a tavern is \$1,250.

(4) The bond amount required for an on premise beer retailer license is the penal sum of \$5,000.

(5) Notwithstanding the other provisions of this part, if an applicant is a state agency or political subdivision of the state it is not required to:

(a) pay an application fee, initial license fee, or renewal fee;

(b) obtain the written consent of the local authority;

(c) submit a copy of the applicant's current business license; or

(d) post a bond as specified by Section 32B 5 204.

32B 6 706. Specific operational requirements for on premise beer retailer license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on premise beer retailer and staff of the on premise beer retailer 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) an on premise beer retailer;

(ii) individual staff of an on premise beer retailer; or

(iii) both an on premise beer retailer and staff of the on premise beer retailer.

(2) (a) An on premise beer retailer is not subject to Section 32B 5 302, but shall make and maintain the records the department requires.

(b) Section 32B 1 205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) Notwithstanding Section 32B 5 303, an on premise beer retailer may not store or sell liquor on its licensed premises.

(4) Beer sold in a sealed container by an on premise beer retailer may be removed from the on premise beer retailer premises in the sealed container.

(5) (a) An on premise beer retailer may not sell, offer for sale, or furnish beer at its licensed premises during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 26 ounces.

(ii) A tavern is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(6) Notwithstanding Section 32B 5 308, a minor may not be on the premises of a tavern.

(7) (a) (i) An on premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the on premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) Violation of Subsection (7)(a)(i) is a class A misdemeanor.

(b) (i) If an on premise beer retailer purchases beer under this Subsection (7) from a beer wholesaler licensee, the on premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off premise beer retailer as provided in Section 32B 13 301.

(ii) Violation of Subsection (7)(b)(i) is a class B misdemeanor.

(8) A tavern shall comply with Section 32B 1 407.

32B 6 707. Application of part to other retail license type.

(1) A retail licensee who is not an on premise beer retailer, but who sells, offers for sale, or furnishes beer pursuant to a different part under this chapter:

(a) may sell, offer for sale, or furnish beer without obtaining a separate on premise beer retailer license from the commission; and

(b) shall comply with the operational requirements under this part that apply to an on premise beer retailer, except when a requirement of this part is inconsistent with or less restrictive than an operational requirement under the relevant part under this chapter for the type of retail license.

(2) Failure of a retail licensee or staff of the retail licensee to comply with a requirement of this part may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) a retail licensee;

(b) individual staff of a retail licensee; or

(c) both a retail licensee and staff of the retail licensee.

32B 6 708. Information obtained by investigator.

(1) Subject to Subsection (2), if an investigator is permitted by another provision of this title to inspect a record of an on premise beer retailer that is a tavern, in addition to any other rights under this title, the investigator may inspect, have a copy of, or otherwise review any record of the tavern that is a visual recording of the operations of the tavern.

(2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise review a visual recording described in Subsection (1) without probable cause.

TITLE 32B - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through July 1, 2011)

ATTIRE, CONDUCT, AND ENTERTAINMENT ACT

32B-1-501. Title.

This part is known as the "Attire, Conduct, and Entertainment Act."

32B-1-502. Purpose -- Application to other laws.

(1) This part establishes reasonable and uniform time, place, and manner of operation requirements relating to attire, conduct, and sexually oriented entertainers on premises or at an event at which an alcoholic product is sold, offered for sale, furnished, or allowed to be consumed under a retail license or permit issued by the commission so as to:

(a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented entertainers may have upon communities of this state; and
(b) protect the health, peace, safety, welfare, and morals of the residents of communities of this state.

(2) Nothing in this part allows the showing or display of any matter that is contrary to:

(a) applicable federal or state statutes prohibiting obscenity; or
(b) state statutes relating to lewdness or indecent public displays.

(3) A local authority may be more restrictive of attire, conduct, or sexually oriented entertainers of the type prohibited in this part.

32B-1-503. Definitions.

Reserved

32B-1-504. General requirements on attire and conduct.

The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:

(1) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic product while the person is in:

(a) a state of nudity;
(b) a state of seminudity; or
(c) performance attire or clothing that exposes to view any portion of:
(i) the female breast below the top of the areola; or
(ii) the cleft of the buttocks;

(2) employing or using the services of a person to mingle with patrons while the person is in:

(a) a state of nudity;
(b) a state of seminudity; or
(c) performance attire or clothing that exposes to view any portion of:
(i) the female breast below the top of the areola; or
(ii) the cleft of the buttocks;

(3) encouraging or permitting a person to:

(a) engage in or simulate an act of:
(i) sexual intercourse;
(ii) masturbation;
(iii) sodomy;
(iv) bestiality;
(v) oral copulation;
(vi) flagellation; or
(vii) a sexual act that is prohibited by Utah law; or
(b) touch, caress, or fondle the breast, buttocks, anus, or genitals of any other person;

(4) permitting a person to wear or use a device or covering that:
(a) is exposed to view; and
(b) simulates all or any portion of the human genitals, anus, pubic area, or female breast;

(5) permitting a person to use an artificial device or inanimate object to depict an act prohibited by this section;

(6) permitting a person to remain on premises or at an event who exposes to public view any portion of that person's:

- (a) genitals, pubic area, or anus; or
- (b) in the case of a female, the areola and nipple of the breast; or
- (7) showing a film, still picture, electronic reproduction, or other visual reproduction depicting:
 - (a) an act or simulated act of:
 - (i) sexual intercourse;
 - (ii) masturbation;
 - (iii) sodomy;
 - (iv) bestiality;
 - (v) oral copulation;
 - (vi) flagellation; or
 - (vii) a sexual act that is prohibited by Utah law;
 - (b) a person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;
 - (c) a scene wherein an artificial device or inanimate object is employed to depict, or a drawing is employed to portray, an act prohibited by this section; or
 - (d) a scene wherein a person displays the genitals or anus.

32B-1-505. Sexually oriented entertainer.

- (1) Subject to the requirements of this part, live entertainment is permitted on premises or at an event regulated by the commission.
- (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a person to:
 - (a) appear or perform in a state of nudity;
 - (b) perform or simulate an act of:
 - (i) sexual intercourse;
 - (ii) masturbation;
 - (iii) sodomy;
 - (iv) bestiality;
 - (v) oral copulation;
 - (vi) flagellation; or
 - (vii) a sexual act that is prohibited by Utah law; or
 - (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- (3) A sexually oriented entertainer may perform in a state of seminudity:
 - (a) only in:
 - (i) a tavern; or
 - (ii) a social club license premises; and
 - (b) only if:
 - (i) the windows, doors, and other apertures to the premises are darkened or otherwise constructed to prevent anyone outside the premises from seeing the performance; and
 - (ii) the outside entrance doors of the premises remain unlocked.
- (4) A sexually oriented entertainer may perform only upon a stage or in a designated performance area that is:
 - (a) approved by the commission in accordance with rules made by the commission;
 - (b) configured so as to preclude a patron from:
 - (i) touching the sexually oriented entertainer; or
 - (ii) placing any money or object on or within the performance attire or the person of the sexually oriented entertainer; and
 - (c) configured so as to preclude the sexually oriented entertainer from touching a patron.
- (5) A sexually oriented entertainer may not touch a patron:
 - (a) during the sexually oriented entertainer's performance; or
 - (b) while the sexually oriented entertainer is dressed in performance attire.
- (6) A sexually oriented entertainer, while in the portion of the premises used by patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented entertainer's performance attire from the top of the breast to the knee.
- (7) A patron may not be on the stage or in the performance area while a sexually oriented entertainer is appearing or performing on the stage or in the performance area.
- (8) A patron may not:
 - (a) touch a sexually oriented entertainer:
 - (i) during the sexually oriented entertainer's performance; or
 - (ii) while the sexually oriented entertainer is dressed in performance attire; or
 - (b) place money or any other object on or within the performance attire or the person of the sexually oriented entertainer.

- (9) A minor may not be on premises described in Subsection (3).
- (10) A person who appears or performs for the entertainment of patrons on premises or at an event regulated by the commission that is not a tavern or social club licensee:
 - (a) may not appear or perform in a state of nudity or a state of seminudity; and
 - (b) may appear or perform in opaque clothing that completely covers the person's genitals, pubic area, and anus if the covering:
 - (i) is not 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;
 - (ii) does not taper to less than one inch wide at the narrowest point; and
 - (iii) if covering a female, completely covers the breast below the top of the areola.

32B-1-506. Compliance -- Administrative enforcement.

- (1) A retail licensee, a permittee, and staff of a licensee or permittee shall comply with this part.
- (2) Failure to comply with this part may result in a disciplinary proceeding pursuant to Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (a) a licensee or permittee;
 - (b) staff of the licensee or permittee;
 - (c) both a licensee and staff of the licensee; or
 - (d) both a permittee and staff of the permittee.

RULES
Effective 10.1.11

R81-1 Alcoholic Beverage Control, Administration.

R81-1-25. Sexually-Oriented Entertainers and Stage Approvals.

- (1) Authority. This rule is pursuant to:
 - (a) the police powers of the state under 32B-1-104 to regulate the sale, service and consumption of alcoholic beverages in a manner that protects the public health, peace, safety, welfare, and morals;
 - (b) the commission's powers and duties under 32B-2-202 to prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored; and
 - (c) 32B-1-501 to -506 that prescribe the attire and conduct of sexually-oriented entertainers in premises regulated by the commission and require them to appear or perform only in a tavern or social club and only upon a stage or in a designated area approved by the commission in accordance with commission rule.
- (2) Purpose. This rule establishes guidelines used by the commission to approve stages and designated performance areas in a tavern or social club where sexually-oriented entertainers may appear or perform in a state of seminudity.
- (3) Definitions.
 - (a) "Seminude", "seminudity, or "state of seminudity" means a state of dress as defined in 32B-1-102(102).
 - (b) "Sexually-oriented entertainer" means a person defined in 32B-1-102(93).
- (4) Application of Rule.
 - (a) A sexually-oriented entertainer may appear or perform seminude only on the premises of a tavern or social club.
 - (b) A tavern or social club licensee, or an employee, independent contractor, or agent of the licensee shall not allow:
 - (i) a sexually-oriented entertainer to appear or perform seminude except in compliance with the conditions and attire and conduct restrictions of 32B-1-502 to -506;
 - (ii) a patron to be on the stage or in the performance area while a sexually-oriented entertainer is appearing or performing on the stage or in the performance area; and
 - (iii) a sexually-oriented entertainer to appear or perform seminude except on a stage or in a designated performance area that has been approved by the commission.
 - (c) Stage and designated performance area requirements.
 - (i) The following shall submit for commission approval a floor-plan containing the location of any stage or designated performance area where sexually-oriented entertainers appear or perform:
 - (A) an applicant for a tavern or social club license from the commission who intends to have sexually-oriented entertainment on the premises;

(B) a current tavern or social club licensee of the commission that did not have sexually-oriented entertainment on the premises when application was made for the license or permit, but now intends to have such entertainment on the premises; or

(C) a current tavern or social club licensee of the commission that has sexually-oriented entertainment on the premises, but has not previously had the stage or performance area approved by the commission.

(ii) The commission may approve a stage or performance area where sexually-oriented entertainers may perform in a state of seminudity only if the stage or performance area:

(A) is horizontally separated from the portion of the premises on which patrons are allowed by a minimum of three (3) feet, which separation shall be delineated by a physical barrier or railing that is at least three (3) feet high from the floor;

(B) is configured so as to preclude a patron from:

(I) touching the sexually-oriented entertainer;

(II) placing any money or object on or within the costume or the person of any sexually-oriented entertainer;

(III) is configured so as to preclude a sexually-oriented entertainer from touching a patron; and

(IV) conforms to the requirements of any local ordinance of the jurisdiction where the premise is located relating to distance separation requirements between sexually-oriented entertainers and patrons that may be more restrictive than the requirements of Sections (4)(c)(i) and (ii) of this rule.

(iii) The person applying for approval of a stage or performance area shall submit with their application:

(A) a diagram, drawn to scale, of the premises of the business including the location of any stage or performance area where sexually-oriented entertainers will appear or perform;

(B) a copy of any applicable local ordinance relating to distance separation requirements between sexually-oriented entertainers and patrons; and

(C) evidence of compliance with any such applicable local ordinance.

R81-10A: On-Premise Beer Retailer Licenses

R81-10A. Recreational Amenity On-Premise Beer Retailer Licenses.

R81-10A-1. Definitions.

(1) "Recreational Amenity" is one or more of the following or an activity substantially similar to one of the following:

(a) a billiard parlor;

(b) a pool parlor;

(c) a bowling facility;

(d) a golf course;

(e) miniature golf;

(f) a golf driving range;

(g) a tennis club;

(h) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;

(i) a concert venue that has a seating capacity equal to or greater than 6,500;

(j) one of the following if owned by a government agency:

(i) a convention center;

(ii) a fair facility;

(iii) an equestrian park;

(iv) a theater; or

(v) a concert venue;

(k) an amusement park:

(i) with one or more permanent amusement rides; and

(ii) located on at least 50 acres;

(l) a ski resort;

(m) a venue for live entertainment if the venue:

(i) is not regularly open for more than five hours on any day;

(ii) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue;

and

- (iii) is operated so that no more than 15% of its total annual receipts are from the sale of beer; or
- (n) concessions operated within the boundary of a park administered by the:
 - (i) Division of Parks and Recreation; or
 - (ii) National Parks Service.

R81-10A-2. Licensing.

(1) Recreational amenity on-premise beer retailer licenses are issued to persons as defined in Section 32B-1-102(74). The department must be immediately notified of any action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued to ensure there is no violation of Sections 32B-5-310.

(2) A recreational amenity on-premise beer retailer licensee that wishes to operate the same licensed premises under the operational restrictions of a restaurant liquor license or a limited restaurant license during certain designated periods of the day or night, must apply for and be issued a separate restaurant liquor license or a limited restaurant license subject to the following:

(a) The same recreational amenity on-premise beer retailer licensee must separately apply for a state restaurant liquor license pursuant to the requirements of Sections 32B-5-202, -204 and 32B-6-204, or a limited restaurant license pursuant to the requirements of Sections 32B-5-201, -204 and 32B-6-304.

(b) Licensees applying for dually licensed premises must notify the department of the time periods under which each license will be operational at the time application is made. Changes must be requested in writing and approved in advance by the department. Licensees may operate sequentially under either license, but not concurrently.

(c) Recreational amenity on-premise beer retailer licensees holding a separate restaurant liquor license must operate in accordance with 32B-5-301 and 32B-6-205 and R81-4A during the hours the restaurant liquor license is active.

(d) Recreational amenity on-premise beer retailer licensees holding a separate limited restaurant license must operate in accordance with 32B-5-301 and 32B-6-305 and R81-4C during the hours the limited restaurant license is active.

(e) Liquor storage areas on the restaurant or limited restaurant premises shall be deemed to remain on the floor plan of the restaurant or limited restaurant premises and shall be kept locked during the hours the recreational amenity on-premise beer retailer license is active.

R81-10A-3. Application.

A license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of a recreational amenity on-premise beer retailer license when the requirements of Sections 32B-1-304, 32B-5-201, -204 and 32B-6-705 have been met, and a completed application has been received by the department and the beer retailer premises have been inspected by the department.

R81-10A-4. Bonds.

No part of any corporate or cash bond required by Section 32B-5-204 and 32B-6-705(4) may be withdrawn during the time the license is in effect. If the recreational amenity on-premise beer licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in the automatic revocation of the license.

R81-10A-5. Insurance.

Public liability and dram shop insurance coverage required in Section 32B-5-201(2)(j) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

R81-10A-6. Identification Badge.

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

R81-1-12. Alcohol Training and Education Seminar.

(1) The alcohol training and education seminar, as described in Section 62A-15-401, shall be completed by every individual of every new and renewing licensee under title 32B who:

(a) is employed to sell or furnish alcoholic beverages to the public within the scope of his employment for consumption on the premises;

(b) is employed to manage or supervise the service of alcoholic beverages; or

(c) holds an ownership interest in an on-premise licensed establishment and performs the duties of a manager, supervisor, or server of alcoholic beverages.

(2) Persons described in subsection 1(a) and (b) must complete the training within 30 days of commencing employment. Persons described in subsection 1(c) must complete the training within 30 days of engaging in the duties described in subsection 1(a) and (b).

(3) Each licensee shall maintain current records on each individual indicating:

(a) date of hire, and

(b) date of completion of training.

(4) The seminar shall include the following subjects in the curriculum and training:

(a) alcohol as a drug and its effect on the body and behavior;

(b) recognizing the problem drinker;

(c) an overview of state alcohol laws;

(d) dealing with problem customers; and

(e) alternate means of transportation to get a customer safely home.

(5) Persons required to complete the seminar shall pay a fee to the seminar provider.

(6) The seminar is administered by the Division of Substance Abuse of the Utah Department of Human Services.

(7) Persons who are not in compliance with subsection (2) may not:

(a) serve or supervise the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or

(b) engage in any activity that would constitute managing operations at the premises of a licensee.

TITLE 32B - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through July 1, 2011)

Alcoholic Beverage Liability

Part 1 General Provisions

32B 15 101. Title.

This chapter is known as the "Alcoholic Product Liability Act."

32B 15 102. Definitions.

As used in this chapter:

- (1) "Death of a third person" includes recovery for all damages, special and general, resulting from the death, except punitive damages.
- (2) (a) "Injury" includes injury in person, property, or means of support.
- (b) "Injury" also includes recovery for intangibles such as:
 - (i) mental and emotional injuries;
 - (ii) loss of affection; and
 - (iii) loss of companionship.

Part 2 Liability

32B 15 201. Liability for injuries and damage resulting from distribution of alcoholic products.

- (1) (a) Except as provided in Subsections 32B 15 202(2) and (3), a person described in Subsection (1)(b) is liable for:
 - (i) any and all injury and damage, except punitive damages to:
 - (A) a third person; or
 - (B) the heir, as defined in Section 78B 3 105, of that third person; or
 - (ii) the death of a third person.
 - (b) A person is liable under Subsection (1)(a) if:
 - (i) the person directly gives, sells, or otherwise provides an alcoholic product:
 - (A) to a person described in Subsection (1)(b)(ii); and
 - (B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product;
 - (ii) those actions cause the intoxication of:
 - (A) an individual under the age of 21 years;
 - (B) an individual who is apparently under the influence of intoxicating alcoholic products or drugs;
 - (C) an individual whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of intoxicating alcoholic products or drugs; or
 - (D) an individual who is a known interdicted person; and
 - (iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic product.
- (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable for:

- (i) any and all injury and damage, except punitive damages to:
 - (A) a third person; or
 - (B) the heir, as defined in Section 78B 3 105, of that third person; or
- (ii) the death of the third person.
- (b) A person is liable under Subsection (2)(a) if:
 - (i) that person directly gives or otherwise provides an alcoholic product to an individual who the person knows or should have known is under the age of 21 years;
 - (ii) those actions caused the intoxication of the individual provided the alcoholic product;
 - (iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic product; and
 - (iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic product as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product.
- (3) This section does not apply to a business licensed in accordance with Chapter 7, Off premise Beer Retailer Act, to sell beer at retail only for off premise consumption.

32B 15 202. Liability for employees Employee protected in exercising judgment.

- (1) (a) Except for a violation of Subsection 32B 15 201(2), an employer is liable for the actions of its staff in violation of this chapter.
- (b) This Subsection (1) does not apply to a business licensed in accordance with Chapter 7, Off premise Beer Retailer Act, to sell beer at retail only for off premise consumption.
- (2) An employer may not sanction or terminate the employment of individual staff of a retail licensee or other establishment serving an alcoholic product as a result of the staff having exercised the staff's independent judgment to refuse to sell an alcoholic product to a person the staff considers to meet one or more of the conditions described in Subsection 32B 15 201(1)(b).
- (3) An employer who terminates an employee or imposes sanctions on the employee contrary to this section is considered to have discriminated against that employee and is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah Antidiscrimination Act.

32B 15 203. Governmental immunity.

This title does not create civil liability on the part of the following arising out of one of the following's actions in regulating, controlling, authorizing, or otherwise being involved in the sale or other distribution of an alcoholic product:

- (1) the state;
- (2) a state agency;
- (3) a state employee;
- (4) the commission;
- (5) the department; or
- (6) a political subdivision.

Part 3
Civil Action

32B 15 301. Cause of action Statute of limitations.

(1) (a) A person who suffers an injury under Subsection 32B 15 201 has a cause of action against the person who provided the alcoholic product in violation of Section 32B 15 201.

(b) If a person having rights or liabilities under this chapter dies, the rights or liabilities provided by this chapter survive to or against that person's estate.

(2) The total amount that may be awarded to any person pursuant to a cause of action for injury and damage under this chapter that arises after January 1, 2010, is limited to \$1,000,000 and the aggregate amount which may be awarded to all persons injured as a result of one occurrence is limited to \$2,000,000.

(3) An action based upon a cause of action under this chapter shall be commenced within two years after the date of the injury and damage.

(4) (a) Nothing in this chapter precludes any cause of action or additional recovery against the person causing the injury.

(b) A cause of action or additional recovery against the person causing the injury and damage, which action is not brought under this chapter, is exempt from the damage cap in Subsection (2).

(c) A cause of action brought under this chapter is exempt from Sections 78B 5 817 through 78B 5 823.

(5) This section does not apply to a business licensed in accordance with Chapter 7, Off premise Beer Retailer Act, to sell beer at retail only for off premise consumption.

32B 15 302. Action for contribution by provider of an alcoholic product.

(1) (a) Except as provided in Subsections (2) and (3), a person, as defined under Section 32B 15 201 or Subsection 32B 15 202(1), against whom an award is made under this chapter, may bring a separate cause of action for contribution against any person causing the injury and damage.

(b) The maximum amount for which a person causing the injury and damage may be liable to a person seeking contribution is that percentage or proportion of the damages equivalent to the percentage or proportion of fault attributed to that person causing the injury and damage.

(2) This action for contribution under this section may not be brought against:

(a) a person entitled to recovery as described in Subsection 32B 15 201(1)(a)(i) or (ii); or

(b) a person entitled to recover as described in Subsection 32B 15 201(2)(a)(i) or (ii).

(3) An action for contribution under this section may not diminish the amount of recovery for injury or damages awarded and received to a person entitled to recover as described in Subsection 32B 15 201(1)(a)(i) or (ii) or 32B 15 201(2)(a)(i) or (ii):

(a) in a cause of action brought under this chapter; or

(b) in a separate cause of action for injury and damage that is not brought under this chapter.



**U.S. DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**REMINDER
Retailers Of Beverage Alcohol Products**

If you sell beverage alcohol as part of your business, you must pay an annual special occupational tax. Beverage alcohol means distilled spirits, wine, beer, mixed drinks, and beer or wine coolers. This tax applies to persons who sell on or off premises or who provide alcoholic beverages as part of the cost of an item or service. You may owe this tax even when you will not make a profit or when you are exempt from income tax.

Detailed information, forms, and taxpayer assistance, is available at web site of the ALCOHOL AND TOBACCO TAX AND TRADE BUREAU:
<http://www.ttb.gov/alcohol/retailers/index.htm>

You must file and pay the special occupational tax on form ATF F 5630.5. You can print or download ATF Form 5630.5 or you can request a packet with the form and instructions by calling the Alcohol and Tobacco Tax and Trade Bureau's toll-free number at 800-937-8864 or local to 513-684-2979.

(REVISED APRIL 22, 2005)

Suspension of Special Occupational Tax Payments

Washington, D.C. - On October 22, 2004, H.R. 4520, the American Job Creations Act of 2004, was signed into law. As part of this act, the payment of Special Occupational Tax (SOT) will be suspended for certain businesses.

Although most taxpayers no longer will have to pay this tax during the suspension period, others will still be required to continue paying, and all taxpayers must still file the SOT Tax Return (TTB Form 5630.5) annually with the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Currently, SOT is due by July 1 of every year for most businesses engaged in alcohol and tobacco industries at the manufacturing, wholesaling/importing, and retailing levels (tobacco retailers are not included).

With this new law, most SOT taxpayers will no longer be required to pay this tax for the period beginning July 1, 2005. The suspension of the SOT requirement will last three years and ends on June 30, 2008. No SOT is due for operations conducted between these dates.

Payment of SOT will no longer be required from producers, wholesalers, importers, and retailers of alcohol beverages, as well as manufacturers of non-beverage products.

SOT will remain due by Tax-Free Alcohol Users and Specially Denatured Alcohol Users and Dealers as well as Tobacco Products Manufacturers and Tobacco Export Warehouse Proprietors.

For all industry members, SOT remains due and payable for all persons in business and any new business until July 1, 2005. Any liabilities up until that date will still be due, even during the suspension period.

If you have questions regarding the suspension of SOT, please contact TTB's National Revenue Center at 1-(800) 937-8864 or (513) 684-2979.