

# UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 S 900 W • PO Box 30408 • Salt Lake City, Utah • 84130-0408 • (801) 977-6800 • Fax 977-6888  
website: [www.abc.utah.gov](http://www.abc.utah.gov)

## **“SPECIAL USE PERMIT” (PUBLIC SERVICE) APPLICATION CHECKLIST**

The items below should be completed and submitted by the **10<sup>th</sup> 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 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 information (see application form).
4. \_\_\_ Written consent from either city/town council or county commission, whichever is applicable (form enclosed).
5. \_\_\_ **\$1,000** special use permit cash or corporate surety bond (form enclosed).
6. \_\_\_ Scaled floor plan (8 ½”x11”) of hospitality room premises only, highlighting the areas where alcohol will be stored, sold and consumed and also reflecting distance between the hospitality room and the arrival and departure area used by carrier.
7. \_\_\_ **\$75** application fee (nonrefundable).
8. \_\_\_ **\$250** initial license fee (make checks payable to UDABC).

Enclosed are copies of Utah laws and rules pertaining to Public Service Special Use permits. 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 SPECIAL USE PERMIT**

**(PUBLIC SERVICE)**

1. Applicant/Organization: \_\_\_\_\_

2. Business Name: \_\_\_\_\_

3. Location: \_\_\_\_\_  
Street City State Zip

4. Mailing Address: \_\_\_\_\_  
Street P O Box City State Zip

5. Business phone: \_\_\_\_\_ Other phone: \_\_\_\_\_ Fax: \_\_\_\_\_

6. Contact person: \_\_\_\_\_ E-mail: \_\_\_\_\_

7. Ownership: Check appropriate box and provide the requested information in the space below.

(add additional sheets if necessary).

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

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.

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.

8. **Criminal History.** 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, or any drug, or the combination of alcohol and any drug from being in the alcohol 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:

<u>NAME</u>	<u>CRIMINAL OFFENSE</u>	<u>DATE OF CONVICTION</u>

**In addition, a criminal history background check must be furnished on each person listed above and in subparagraph 7. 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)**.

**An informed consent and release of liability form is included with this application.**

**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.

9. 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?

YES  NO If YES, please explain: \_\_\_\_\_

---

11. Does applicant propose to utilize a “hospitality room” where liquor will be sold or served to persons while in transit? \_\_\_\_\_ If yes, attach floor plan for such facility showing its location and highlighting the sale, consumption and storage areas and the distance between the room and the and departure area used by carrier.

12. List total of regularly numbered flights, trains, buses, boats, or other types of public conveyance for which the application is made: \_\_\_\_\_

13. List any other storage locations for alcoholic products: \_\_\_\_\_
- 

14. By signing below, the applicant attests that:

a) the applicant is at least 21 years of age.

b) 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 permit holder.

c) he/she has read and will abide by the provisions of Section 32B-10, Utah Code and all rules and directives of the Utah Department of Alcoholic Beverage Control; and understands that failure to adhere thereto shall constitute grounds for removal of said permit.

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

e) he/she has read and understands the statements made herein; that execution thereof is done voluntarily and by authorization of said organization, and that any false statement made on this application or any related document is a second degree felony.

15. The undersigned hereby makes application to the Utah Alcoholic Beverage Control Commission for a Special Use Permit (Public Service) and certifies that the information contained herein and attached hereto to be true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Applicant/owner of business

\_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Name/title

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed & sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

SEAL:

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
SPECIAL USE PERMIT (PUBLIC SERVICE)**

**LOCAL CONSENT**

Date: \_\_\_\_\_

Utah Department of Alcoholic Beverage Control  
Licensing & Compliance Section  
1625 S 900 W  
PO Box 30408  
Salt Lake City, Utah 84130-0408

\_\_\_\_\_, (City)(Town)(County)

grants its consent to the issuance of a Public Service Special Use permit for \_\_\_\_\_, a

\_\_\_\_\_ owned by \_\_\_\_\_,

and located at \_\_\_\_\_,

pursuant to the provisions of Utah Code, 32B-10, for the purpose of purchase, storage, sale,

consumption and/or other lawful use of alcoholic products as authorized by the Utah Department of

Alcoholic Beverage Control. The applicant has met all ordinances relating to the issuance of the permit.

Sincerely,

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name/Title

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

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

**“PUBLIC SERVICE BOND”  
(SPECIAL USE)**

**BOND #** \_\_\_\_\_

**KNOW ALL PERSONS BY THESE PRESENTS:**

That **Principal**, \_\_\_\_\_, a public service permittee, 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 **\$1,000**, 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 a public service permit pursuant to the provisions of 32B-10, 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 permittee / 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**

## 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)

\_\_\_\_\_  
Applicant/ doing business as

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(suggested attestation/stipulation letter to the DABC for a third-party national criminal background check)

**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**

## Sales Tax Information for Liquor License Holders

The prices of liquor, wine, and heavy beer at the liquor stores and package agencies will NO LONGER include sales tax. The sales tax will be added at the cash register when members of the general public shop in a liquor store or package agency and bring their purchases to the cash register. License holders (licensees) that make purchases at the cash register will be charged sales tax just like the general public.

Licensees may purchase liquor from the department without paying the sales tax under these two conditions:

1. The licensee must file tax commission form TC-721 with the DABC. A copy of this form is included in this application packet. Once filed, the licensee can buy liquor, wine, and heavy beer exempt from sales tax at any DABC owned and operated state liquor store. If the licensee buys from a local package agency that is a "contracted store" (not owned or operated by the DABC), the licensee has to file form TC-721 with the package agency in order to be able to purchase "sales tax exempt"; *and*
2. The licensee must adhere to the liquor order procedures established by the DABC commission as follows:
  - (a) Commission rule requires that orders must be placed in advance to allow department personnel sufficient time to assemble the order. The order shall include the business name of the licensee, department permit number, and list the products ordered specifying each product by code number and quantity. The order may be telephoned or faxed to the store or agency.
  - (b) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check, cashier's check, or debit card with a PIN.
  - (c) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.
  - (d) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

The following licensees and permittees qualify to buy tax exempt:

- full-service restaurants
- limited restaurants
- private clubs
- airport lounges
- on-premise banquet licensees
- holders of single event permit, public service permits and educational special use permits that buy for resale
- holders of religious wine permits

Each licensee or permittee will be responsible for collecting the sales tax on the liquor, wine and heavy beer they resell and remitting the tax directly to the State Tax Commission.



Utah State Tax Commission  
**Exemption Certificate**  
 (Sales, Use, Tourism and Motor Vehicle Rental Tax)

**TC-721**  
 Rev. 5/06

Name of business or institution claiming exemption (purchaser)		Telephone Number	
Street Address	City	State	ZIP Code
Authorized Signature	Name (please print)	Title	Date
Name of Seller or Supplier: <b>Department of Alcoholic Beverage Control</b>			

The person signing this certificate **MUST** check the applicable box showing the basis for which the exemption is being claimed. Questions should be directed (preferably in writing) to Taxpayer Services, Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134. Telephone (801) 297-2200, or toll free 1-800-662-4335.

**DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION**  
**Keep it with your records in case of an audit.**

**Sales tax account numbers with an "H" prefix are not to be used for tax-free purchases for resale or re-lease.**

**RESALE OR RE-LEASE**

Sales Tax License No. \_\_\_\_\_

I certify I am a dealer in tangible personal property or services that is for resale or re-lease. If I use or consume any tangible personal property or services I purchase tax free for resale, or if my sales are of food, beverages, dairy products and similar confections dispensed from vending machines (see Rule R865-19S-74), I will report and pay sales tax on the proper cost thereof directly to the Tax Commission on my next regular sales and use tax return.

**COMMERCIAL AIRLINES**

I certify the food and beverages purchased are by a commercial airline for in-flight consumption; or, any parts or equipment purchased are for use in aircraft operated by common carriers in interstate or foreign commerce.

**RELIGIOUS OR CHARITABLE INSTITUTION**

Sales Tax Exemption No. N \_\_\_\_\_

I certify the tangible personal property or services purchased will be used or consumed for essential religious or charitable purposes. This exemption can only be used on purchases totaling \$1,000 or more, unless the sale is pursuant to a contract between the seller and purchaser.

To be valid this certificate must be filled in completely, including a check mark in the proper box.

**A sales tax license number is required only where specifically indicated.**

Please sign, date and, if applicable, include your license or exemption number.

**NOTE TO SELLER:** Keep this certificate on file since it must be available for audit review.

**NOTE TO PURCHASER:** Keep a copy of this certificate for your records. You are responsible to notify the seller of cancellation, modification, or limitation of the exemption you have claimed.

**DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION**

# TITLE 32B - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through July 2011)

## Part 1

### General Provisions

32B-10-101. Title.

This chapter is known as the "Special Use Permit Act."

32B-10-102. Definitions.

As used in this chapter, "special use permit" means a special use permit issued under this chapter, including:

- (1) a religious wine use permit;
- (2) an industrial or manufacturing use permit;
- (3) a scientific or educational use permit; and
- (4) a public service permit.

## Part 2

### Commission's power to issue special use permit

32B-10-201. Commission's power to issue special use permit.

(1) Before a person may purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product in a manner that requires a special use permit, the person shall first obtain a special use permit in accordance with this chapter.

(2) (a) The commission may issue a special use permit for the purchase, use, storage, sale, offer for sale, consumption, or manufacture of an alcoholic product for a limited purpose specified by this chapter and the rules of the commission.

(b) A special use permit authorizes the special use permittee to purchase, use, store, sell, offer for sale, consume, or manufacture an alcoholic product only in the quantity, in a type, and for a purpose stated in the special use permit.

32B-10-202. Application for special use permit -- Qualifications.

(1) To obtain a special use permit, a person shall submit to the department:

- (a) a written application in a form prescribed by the department;
- (b) a nonrefundable application fee, if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;
- (c) an initial permit fee:
  - (i) if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies; and
  - (ii) that is refundable if a special use permit is not issued;
- (d) a one-time special use permit fee if required by a section of this chapter:
  - (i) applicable to the type of special use permit for which the person applies; and
  - (ii) that is refundable if a special use permit is not issued;
- (e) a statement of the purpose for which the person applies for the special use permit;
- (f) a description of the types of alcoholic product the person intends to use under authority of the special use permit;
- (g) written consent of the local authority;
- (h) if required, a bond as provided in Section 32B-10-205;

(i) a floor plan of the immediate area within the premises in which the person proposes that an alcoholic product will be used, mixed, stored, sold, or consumed if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;

(j) a signed consent form stating that the special use permittee will permit any authorized representative of the commission, department, or any other law enforcement officer to have unrestricted right to enter the special use permittee's premises;

(k) 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

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

(2) (a) The commission may issue a special use permit only to a person who qualifies as follows:

(i) the commission may issue a religious wine use permit to a religious organization;

(ii) the commission may issue an industrial or manufacturing use permit to a person engaged in an industrial or manufacturing pursuit;

(iii) the commission may issue a scientific or educational use permit to a person engaged in a scientific or educational pursuit; and

(iv) the commission may issue a public service permit to an operator of an airline, railroad, or other public conveyance.

(b) The commission may not issue a special use permit to a person who is disqualified under Section 32B-1-304.

(c) If a person to whom a special use permit is issued no longer possesses the qualifications required by this title for obtaining that special use permit, the commission may suspend or revoke that special use permit.

#### 32B-10-203. Renewal of special use permit.

(1) A special use permit expires on December 31 of each year unless otherwise provided on the special use permit.

(2) To renew a renewable special use permit, a person shall submit a completed renewal application to the department:

(a) no later than November 30; and

(b) in a form prescribed by the department.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the special use permit, effective on the date the existing special use permit expires.

#### 32B-10-204. Duties of commission and department before issuing special use permit.

(1) (a) Before the commission issues a special use permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a special use permit should be issued.

(b) The department shall forward the information it gathers and its recommendations to the commission to aid in the commission's determination.

(2) Before issuing a special use permit, the commission shall:

(a) determine that the person filed a complete application and is in compliance with:

- (i) Section 32B-10-202; and
- (ii) the relevant part under this chapter that applies to the special use permit for which the person is applying;
- (b) determine that the person is not disqualified under Section 32B-1-304;
- (c) consider the physical characteristics of the premises where an alcoholic product is proposed to be used, mixed, stored, sold, offered for sale, or furnished such as:
  - (i) the condition of the premises;
  - (ii) public visibility; and
  - (iii) safety considerations;
- (d) consider the person's ability to properly use the special use permit within the requirements of this title and the commission rules including:
  - (i) the proposed use of the special use permit; and
  - (ii) the nature and type of person making use of the special use permit;
- (e) consider specific factors regarding the specific type of special use permit sought by the person;
- (f) approve of the location and equipment used by the person to distill alcohol for experimental testing purposes or use as a fuel; and
- (g) consider any other factor the commission considers necessary.

32B-10-205. Bond for special use permit.

(1) A special use permittee shall post a cash bond or surety bond only if the relevant part under this chapter for the type of special use permit requires posting of a bond.

(2) (a) If a special use permittee is required to post a bond as provided in Subsection (1), the special use permittee shall procure and maintain the bond for as long as the special use permittee continues to operate under the special use permit.

(b) A bond required under this section shall be:

- (i) in a form approved by the attorney general; and
- (ii) conditioned upon the special use permittee's faithful compliance with this title and the rules of the commission.

(3) If a surety bond posted by a special use permittee under this section is canceled due to a special use permittee's negligence, the department may assess a \$300 reinstatement fee.

(4) No part of a bond posted by a special use permittee under this section may be withdrawn during the period that the special use permit is in effect.

(5) (a) A bond posted by a special use permittee under this section may be forfeited if the special use permit is revoked.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a special use permittee for money owed the department under this title without the commission first revoking the special use permit.

32B-10-206. General operational requirements for special use permit.

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a special use permittee;
- (ii) individual staff of a special use permittee; or
- (iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:

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

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, without prior written approval of the commission.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

- (a) physical facilities;
- (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

32B-10-207. Notifying department of change of ownership.

The commission may suspend or revoke a special use permit if a special use permittee does not immediately notify the department of a change in:

- (1) ownership of the permittee's business;
- (2) for a corporate owner, the:
  - (a) corporate officers or directors; 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; or
  - (b) members owning at least 20% of the limited liability company.

### **Part 3**

#### **Public Service Permit**

**32B-10-301** Title.

This part is known as "Public Service Permit."

**32B-10-302.** Definitions.

Reserved

**32B-10-303.** Specific application and renewal requirements for public service permit.

(1) To obtain a public service permit, in addition to complying with Section 32B-10-202, a person shall submit to the department:

(a) a statement of the total of regularly numbered flights, trains, buses, boats, or other types of public conveyance for which the person plans to use the special use permit;

(b) a floor plan of any room or facility in which the person plans to establish a hospitality room where the sale, offer for sale, or furnishing of an alcoholic product is made to a patron then in transit, using the host company's airline, railroad, bus, boat, or other public conveyance; and

(c) evidence of proximity of a proposed hospitality room to the arrival and departure area used by a person traveling on the host company's airline, railroad, bus, boat, or other public conveyance.

(2) (a) The nonrefundable application fee for a public service permit is \$75.

(b) The initial permit fee for a public service permit is \$250.

(c) The bond amount required for a public service permittee is the penal sum of \$1,000.

(3) (a) To renew a public service permit, a person shall comply with Section 32B-10-203.

(b) The renewal fee for a public service permit is \$30 for each regularly numbered passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

**32B-10-304.** Specific operational requirements for a public service permit.

(1) (a) In addition to complying with Section 32B-10-206, a public service permittee and staff of the public service permittee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a public service permittee;

(ii) individual staff of a public service permittee; or

(iii) both a public service permittee and staff of the public service permittee.

(2) (a) A public service permittee whose public conveyances operate on an interstate basis may do the following:

(i) purchase an alcoholic product outside of the state;

(ii) bring an alcoholic product purchased outside of the state into the state; and

(iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance.

(b) A public service permittee whose public conveyance operates solely within the state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance, shall purchase:

- (i) liquor from a state store or package agency; and
- (ii) beer from a beer wholesaler licensee.

(3) (a) A public service permittee may establish a hospitality room in which an alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

- (i) the room is located within a depot, terminal, or similar facility adjacent to and servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;
- (ii) the room is completely enclosed and the interior is not visible to the public;
- (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a person:

- (A) then in transit using the host company's airline, railroad, bus line, or other public conveyance; and
- (B) holding a valid boarding pass or similar travel document issued by the host company; and

(iv) (A) liquor is purchased from:

- (I) a state store; or
- (II) a package agency; and

(B) beer is purchased from a beer wholesaler licensee.

(b) (i) A public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters that consists of text in the following order:

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

(ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a different font style than the text described in Subsections (3)(b)(i)(D) and (E).

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

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

(c) A hospitality room shall be operated in accordance with this chapter and rules adopted by the commission.

## **R81. Alcoholic Beverage Control, Administration.**

### **R81-6. Special Use Permits.**

#### **R81. Alcoholic Beverage Control, Administration.**

#### **R81-6. Special Use Permits.**

##### **R81-6-1. Application. (proposed)**

An application for a special use permit shall be included in the agenda of the monthly commission meeting for consideration for issuance of a special use permit when the requirements of Sections [32A-6-102 and -103] 32B-1-304 and 32B-10-202, -205 have been met, and a completed application has been received by the department.

##### **R81-6-2. Warning Sign. (existing)**

All public service permittees which utilize a hospitality room shall display in a prominent place therein a "warning sign" as defined in R81-1-2.

##### **R81-6-3. Direct Delivery. (existing)**

Industrial, manufacturing, scientific, educational, and health care special use permittees may purchase alcohol directly from the manufacturer and have it shipped directly to the permittee's address, provided the alcohol is used for industrial, manufacturing, scientific, educational, or health care purposes.

##### **R81-6-4. Public Service Permittee Operating Guidelines. (existing)**

(1) A public service permittee that operates on an interstate basis may purchase liquor outside of the state and bring it into the state and/or purchase liquor within the state and sell, store and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance. However, all liquor utilized within a public service permittee's hospitality room must be purchased from a state liquor store or package agency within this state.

(2) All liquor transported from outside the state to the permittee's storage facility shall be carried in sealed conveyances which may be inspected at any time by the department.

(3) A public service permittee shall keep available and open for audit during regular business hours, complete and accurate records of alcoholic product shipments to and from their storage facility. Records shall be kept for a minimum of three years.

(4) A public service permittee shall allow the department, through its auditors or examiners, to audit all records relating to the storage, sale, consumption and transportation of alcoholic products by the permittee.

**TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT**  
**CHAPTER 15**  
**ALCOHOLIC PRODUCT LIABILITY ACT**  
**Effective July 1, 2011**

**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.

# TITLE 32A- ALCOHOLIC BEVERAGE CONTROL ACT

## PART 4

### ALCOHOL TRAINING AND EDUCATION

#### **32A-1-401. ALCOHOL TRAINING AND EDUCATION -- REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSES.**

(1) The commission may suspend, revoke, or not renew the license of any licensee licensed by the commission if any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol training and education seminar required in Section 62A-15-401:

(a) an individual who manages operations at the premises of the licensee engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee;

(b) an individual who supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or

(c) an individual who serves alcoholic beverages to a customer for consumption on the premises of the licensee.

(2) A city, town, or county in which an establishment conducts its business may suspend, revoke, or not renew the business license of the establishment if any individual described in Subsection (1) fails to complete an alcohol training and education seminar required in Section 62A-15-401.

#### **R81. Alcoholic Beverage Control, Administration.**

##### **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.



**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.