

2017 General Session Summary

H.B. 442 Alcohol Amendments

H.B. 442 was a major piece of alcohol reform legislation that affects almost every aspect of the Alcoholic Beverage Control Act (Utah Code -Title 32B). Below is a summary of the provisions. Please click [here](#) for a link to the full text of the bill.

Markup on all liquor (spirits, wine and heavy beer) increased by 2% (“beer” sold in grocery/convenience stores not affected by this mark up)

Licensing and renewal changes

Local licensing - provides that a local authority may issue a business license to a retail licensee only if the licensee is lawfully present in the United States (expands from citizen requirements and is now consistent with statute related to issuing on-premise retail licenses)

Proximity- reduces the permissible proximity of a restaurant licensee to a community location to 300 feet pedestrian travel and removes the commission's authority to grant a variance to the proximity requirements;

Responsible Alcohol Service Plans - provides that each retail licensee shall submit a responsible alcohol service plan to the department upon application for or renewal of a retail license;

Fees establishes a flat renewal fee for a full-service restaurant licensee;

Phasing out of dual licensed rooms - ie using two licenses to circumvent dispensing requirements in restaurants - prohibits more than one type of retail license for the same room, unless the licenses are a combination of two or more of the following: a restaurant license; an on-premise beer retailer license that is not a tavern; and an on-premise banquet license or reception center license;

Phasing out of dining clubs

- prohibits the commission from issuing or renewing a dining club license on or after July 1, 2017;
- provides that effective July 1, 2018, each dining club licensee converts to a full-service restaurant licensee or a bar licensee;
- provides a phased transition for a dining club licensee that converts to a full-service restaurant licensee.

Operational Requirement Changes

Options for Dispensing in a Restaurant

- provides that beginning on July 1, 2017, and no later than July 1, 2018, a restaurant licensee that does not have a grandfathered bar structure shall designate a dispensing area within which:
 - the restaurant licensee may store and dispense alcoholic product at a dispensing structure;
 - an individual 21 years of age or older may consume food and beverages; and
 - except under certain circumstances, a minor may not be present;
- removes grandfathered bar structures beginning on July 1, 2022;

Other operational changes for restaurants

- states that a retail licensee may provide wine service for a bottled wine carried onto the licensed premises or purchased at the licensed premises

Operational requirements

- modifies the calculation of the money from the sale of a bottle or individual portion of wine by a retail licensee or sublicensee in determining the percentage of gross receipts from the sale of food or an alcoholic product;
- requires electronic age verification of certain individuals who procure an alcoholic product in a dispensing area in a restaurant;
- extends the hours during which a restaurant licensee may sell, offer for sale, or furnish an alcoholic product on a weekend or a state or federal legal holiday;
- provides that a restaurant licensee may sell, offer for sale, or furnish an alcoholic product to a patron only if:
 - the patron is seated in a dispensing area and furnished no more than one portion or an alcoholic product while waiting for a seat in the dining area where the patron intends to order and consume food;
 - or the patron is seated at a table, counter, or dispensing structure, and the patron intends to order and consume food in the same location where the patron is seated;
- provides that a restaurant licensee may not transfer, dispense, or serve an alcoholic product from a movable cart;
- addresses the retention of certain records for restaurant licensees;
- requires a restaurant licensee or a bar licensee to display a sign that states whether the licensee is a restaurant or a bar; - MAY 9 2017

Department Training Programs

Requires the department to develop the following training programs:

- a training program for retail managers;

- a training program for off-premise retail managers; and
- a training program for an individual who commits a violation related to service to an intoxicated individual or a minor;

enacts a process for the Department of Public Safety to track violations of each retail licensee involving the sale of an alcoholic product to a minor;

Malted Beverage Label Requirements

modifies the application requirements for approval of the label and packaging of a malted beverage;

Advisory Board Modifications

reduces and modifies the membership of the Alcoholic Beverage Control Advisory Board;

Enforcement

requires a presiding officer to consider any aggravating circumstances or mitigating circumstances when imposing a fine (codification of Commission Rule)

Off-premise beer retailer licensing

- beginning July 1, 2018, establishes an off-premise beer retailer state license, including an application process, fees, and renewal procedures;
- provides that an off-premise beer retailer shall display beer in no more than two locations that are separate from any nonalcoholic beverage;
- addresses notification to the department if an off-premise beer retailer changes ownership;
- modifies and repeals certain provisions related to local authority enforcement of off-premise beer retailers to correspond with the state enforcement mechanisms available under the off-premise beer retailer state license.

Underage Drinking Prevention Program

- creates the Underage Drinking Prevention Program that consists of a school-based prevention presentation for students in grade 8 and grade 10;
- requires each local education agency to offer the Underage Drinking Prevention Program each school year to each student in grade 8 and grade 10;
- creates the Underage Drinking Prevention Program Advisory Council to provide input to the State Board of Education in administering the Underage Drinking Prevention Program;
- provides that the State Board of Education shall qualify one or more providers to provide the Underage Drinking Prevention Program;

- creates the Underage Drinking Prevention Program Restricted Account, funded by: money from the markup on alcoholic beverages; appropriations made by the Legislature; and interest earned on money in the account
- provides that the State Board of Education may use money in the Underage Drinking Prevention Program Restricted Account for the Underage Drinking Prevention Program.

Other

- provides that a licensee or permittee may only engage in behavior expressly allowed by Title 32B, Alcoholic Beverage Control Act, or local ordinance;
- requires the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Commission to implement and enforce the provisions of Title 32B, Alcoholic Beverage Control Act, in accordance with its express language and stated policy purpose;
- provides that every three years the Legislature's general counsel shall:
 - conduct a review of each rule made by the commission for compliance with current statute; and
 - prepare and submit a report to the president of the Senate and the speaker of the House of Representatives;
- upon prioritization by the Audit Subcommittee, provides that the Office of the Legislative Auditor General may:
 - review current practice of the commission or department for compliance with current statute; and
 - prepare and submit a report to the Audit Subcommittee.