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## Alcohol Related Bills that Passed in the 2009 Legislative Session

It was a busy session this year on Capitol Hill. Fourteen alcohol related bills were proposed and the nine bills were passed. This newsletter includes a summary of the bills that passed.

The bill that affects most of the DABC license holders is SB187 - "Alcohol Amendments" and is summarized on the next four pages.

The text of any of the bills can be viewed at:

<http://le.utah.gov/asp/passedbills/passedbills.asp>

If you would like to directly access the text SB187, please click this link and select the "enrolled" text of the bill. You may view it in HTML or pdf format: <http://le.utah.gov/~2009/htmdoc/sbillhtm/SB0187S01.htm>

Bills that passed:

S.B. 187 (Sen. John Valentine/Rep. Greg Hughes)  
**Alcohol Amendments**

H.B. 352 (Rep. Dunnigan)  
**Conditional licensing for full-service and limited-service restaurants; and allowing an investigator access to information in clubs and taverns**

H.B. 21 (Rep. Greenwood)  
**Additional penalties for minors who drive with a detectable amount of alcohol**

H.B. 129 (Rep. Oda)  
**Enhanced penalties for minors who violate the ABC Act**

S.B. 272 (Sen. Jenkins)  
**Increased driver license suspension periods for certain DUI offenses**

H.B. 51 (Rep. Christine Johnson)  
**Home Production of Fermented Alcohol**

H.B. 313 (Rep. Hutchings)  
**Social Host Liability Act**

S.B. 116 (Sen. Liljenquist)  
**DUI convictions**

S.B. 169 (Sen. Liljenquist)  
**"Fringe gambling"**

## Alcohol Amendments

S.B. 187 (Sen. John Valentine/Rep. Greg Hughes)

References to line numbers below refer to the enrolled text of the bill. See <http://le.utah.gov/~2009/bills/sbillenr/sb0187.htm>

### PRIVATE CLUBS

►Creates four types of clubs:

1. equity (organized for a social, recreational, patriotic, or fraternal purpose; has members; limits access to members and their guests; owns, maintains, or operates a substantial recreational facility in conjunction with a club house such as a golf course or tennis facility; has at least 50% of members with full voting rights and an equal share of the equity of the club (*Lines 4089-4096*) (allows for reciprocal guest privileges with other equity clubs) (*Lines 4617-4626*)

2. fraternal (organized for a social, recreational, patriotic, or fraternal purpose; has members; limits access to members and their guests; has no capital stock; has a representative form of government and a lodge system with a supreme governing body)(allows for reciprocal guest privileges with members of same fraternal organization) (*Lines 4110-4135*)

3. dining (commission determines based on square footage, seating capacity, portion used for dining vs. bar area, whether full meals are served, whether entertainment is suitable for minors, maintains 50% in food sales) (*Lines 4139-4157*)

4. social (doesn't meet criteria for other clubs or wants to operate as a social club) (*Lines 4158-4160*)

►Equity and fraternal clubs remain private.

►Dining and social clubs are open to the public but the club licensee may choose to restrict access to only those who

are on a list and/or pay a fee.

►Dining and social clubs must comply with the new proof of age verification laws discussed below.

►Minors are allowed in equity, fraternal, and dining clubs but not in bar areas.

►Minors must be accompanied by an adult in a dining club.

►Minors are not allowed in social clubs (except those clubs that had a minor dance hall/concert hall permit on or before May 11, 2009). (*Lines 4738-4747*). Minors may not be employed on the premises of a social club.

►Renewal fee for all clubs is \$1600 (replaces graduated fee system)

►A club licensee may not temporarily rent or lease its premises to another person unless the person agrees in writing to comply with the operational restrictions for clubs and the licensee takes reasonable steps to ensure that the person complies.

►Transition provisions: current class C & D private clubs automatically convert to dining and social clubs during the club renewal period in June upon payment of the \$1600 renewal fee. These clubs may also request to convert to a different type of club license. The new license will be effective on July 1, 2009. The conversion does not require a redetermination of proximity requirements.

### AGE VERIFICATION BY DINING & SOCIAL CLUB LICENSEES

Dining and social clubs must verify age before anyone who appears to be 35 years of age or younger may gain admittance to a social club, or obtain an alcoholic beverage in a dining club.

The club must verify age electronically or by some other process approved by the commission by rule.

The commission must also adopt a rule establishing

guidelines for the use of age verification electronic devices. It must require that the electronic verification device display no more than the name, age, # of the ID, birth date, gender, status & expiration date, security measures to ensure the information is not improperly used, and maintain the data for seven (7) days. (*Lines 1329-1370*) [Proposed rules and newly enacted rules are posted on the "What's New" section of the DABC website:

[http://www.abc.utah.gov/whats\\_new.html](http://www.abc.utah.gov/whats_new.html) ]

### DOUBLES THE MANDATORY DRAM SHOP INSURANCE COVERAGE

Alcohol licensees must have a minimum of \$1,000,000 per occurrence, and \$2,000,000 in the aggregate.

The 2009 Business and Labor Interim Committee of the Legislature must study whether a club licensee can

reasonably obtain dram shop insurance coverage of the amounts required and recommend any needed changes to the Legislature for consideration during the 2010 General Session.

## “BAR STRUCTURES” IN RESTAURANTS

“Bar” is defined as a counter or similar structure at which an alcoholic beverage or product is stored or dispensed, or from which an alcoholic beverage is served. “Bar structure” means a surface or structure on the premises of a restaurant if on or at any place of the surface or structure an alcoholic beverage or product is stored or dispensed. (*Lines 249-260*)

“Grandfathering” of bar structures. (*1870-2017; 2482-2526; and 2537-2630*). Any full-service or limited-service restaurant that, as of May 11, 2009, had patron seating at a bar structure that was divided by a partition along the width or length of the structure, or was under construction as of May 12, 2009 and is granted a license by the commission by December 31, 2009, may allow adults to be seated at the bar and served alcohol without the partition. This “grandfathering” continues if the restaurant changes ownership. (*Lines 1875-1919*).

Alcoholic beverages may be dispensed only from:

- (1) a “grandfathered” bar structure;
- (2) an area adjacent to a “grandfathered” bar structure that is visible to a patron sitting at the “grandfathered” bar structure if that area was used to dispense an alcoholic beverage as of May 12, 2009 (i.e. a service bar near the bar structure); or
- (3) an area that is separated from the dining, staging, lobby, or waiting areas by a solid, opaque, permanent structural barrier so that the dispensing or storage of alcohol is not readily visible and accessible to restaurant patrons. (The restaurant may continue to provide wine service for wine brought into the restaurant by a patron - i.e. “brownbagged”.)

If a restaurant remodels, it loses the above “grandfathering” benefit. (*Lines 1913-1919*). However, as an incentive, if a restaurant wants to eliminate a “grandfathered” bar structure and remodel the restaurant to dispense and store liquor in

an area described in (3) above, the restaurant will receive a credit for liquor purchases from a state store or package agency for the actual costs of the remodel or \$30,000 whichever is less. The total amount appropriated for these credits is \$1,000,000 awarded on a first come, first served basis. To receive the credit, the licensee must complete the reconstruction by December 31, 2011, and apply for the credit no later than April 1, 2012.

Patrons may consume alcohol at their table, a counter, or a “grandfathered” bar structure where food is served.

Minors may not sit or be served food or beverages at a “grandfathered” bar structure.

Minors may perform maintenance and cleaning services at bar structures when the restaurant is not open for business.

Minors may momentarily pass by a “grandfathered” bar structure en route to an area where a minor is permitted to be, but may not remain or sit at a bar structure.

Minors may be seated at a “counter”. Counter includes a surface or structure in a dining area of a restaurant where seating is provided for service of food, but not if alcohol is stored or dispensed there. Alcoholic beverages may be consumed at a counter. Thus, a minor may be seated next to an adult patron that is consuming an alcoholic beverage if that beverage was dispensed from a remote location separate and not visible to restaurant patrons. (*Lines 340-347*)

Liquor bottles may be displayed in areas visible to restaurant patrons. Such bottles may be used for dispensing, but once opened, must be stored in the separate storage/dispensing area not visible to restaurant patrons.

## NEW DEFINITION OF “INTOXICATED PERSON”

This is in response to the Utah Supreme Court decision in the Southern X-Posure case.

“Intoxicated” means that a person

- (a) is significantly impaired as to the person’s mental or physical functions as a result of the use of an alcoholic beverage, a controlled substance, a substance having the property of releasing toxic vapors, or a combination of these, and
- (b) exhibits plain and easily observed outward

manifestations of behavior or physical signs produced by the over consumption of an alcoholic beverage. (*Lines 403-412*)

Administrative disciplinary actions involving alleged serving of intoxicated patrons may not be brought unless the investigating officer has received training regarding the requirements of the Act related to responsible alcoholic beverage sale or service. (*Lines 1271-1277; 5534-5544*)

## PROXIMITY PROVISIONS FOR FULL-SERVICE AND LIMITED-SERVICE RESTAURANTS

Allows the commission to waive the proximity restrictions for a new owner of a restaurant in situations where the prior owner was issued a restaurant license before a church,

school, library, park or playground located in proximity to the restaurant. (*Lines 1730-1740; and 2353-2363*)

## ELECTION DAY SALES

Allows state liquor stores and all package agencies to sell on election days. (*Lines 1454-1458; 1536-1556*)

**NEW "RESORT" LICENSE** *(Lines 3008-4062)*

Creates a resort license for a resort building that has at least 150 dwelling or lodging accommodations (50% of which must be owned by a person other than the resort licensee) and the building must be at least 400,000 square feet. The resort must be affiliated with a ski area that abuts the resort premises. A dwelling must be owned and used as a residence, but may be rented, loaned, leased, or hired out for a period of no longer than 30 consecutive days.

Only four (4) of these resort licenses are available statewide.

In addition to applying for a general resort license, the resort licensee also must apply for a series of at least four sublicenses. These include full-service restaurant, limited service restaurant, on-premise banquet facility, club, on-premise beer retailer, and resort spa sublicenses each of which must be located within the boundaries of the resort building.

A resort spa is a spa within the resort building and as defined by commission rule. Patrons of a resort spa must be a resident of the resort, a public customer who holds a valid customer card, or an invitee who is previously authorized by a resident or holder of a customer card who agrees to host the invitee. Customer cards are good for up to three weeks. The card holder may host up to seven invitees at a time.

A resort spa sublicensee must maintain detailed records which must be audited annually by the DABC. Food must be available at all times when alcoholic beverages are served. Alcoholic beverages may only be consumed at a table or counter. Alcoholic beverages may not be served to or consumed by a person at a bar. Sales hours are 10 a.m. to 1 a.m. with one additional hour for consumption. A minor may not be on the premises of the resort spa unless accompanied by an adult, or be in a lounge or bar area of the premises.

A minor may not be employed to sell, dispense, or handle

alcoholic beverages or work in a lounge or bar area, but a minor who is at least 16 years of age may enter the sale at a cash register.

The overall resort licensee must ensure that each sublicense, package agency, or permit holder operates in accordance with the operational restrictions for that type of outlet. The sale and service of alcohol is done under the supervision and direction of the resort licensee.

In the event of a violation at a sublicensed location, action may be taken against the person operating the sublicense and the person's employees or agents. Action may also be taken against the resort licensee or individual member of the licensee's management personnel if, during a three year period there are three or more disciplinary proceedings against any person operating under a sublicense, and the resort licensee has not taken reasonable steps to prevent violations.

With respect to the overall resort licensee, 70% of the annual aggregate of the gross receipts must be from the sale of food. However, the resort licensee is not required to include in the calculation monies from the sale of a bottle of wine in excess of \$250.

Room service of alcoholic beverages to adult occupants of lodging accommodations is allowed. However, the beverages may only be delivered in sealed containers in person to the adult occupant, and may not be left outside the room for retrieval by an occupant.

The initial resort license fee is \$10,000 if four sublicenses are applied for and \$2000 for each additional sublicense. A renewal fee of \$1000 for each sublicense is required. However, if an additional sublicense is added during the renewal, an application fee of \$250 and a license fee of \$2000 is required for each additional license). A compliance bond of \$25,000 is also required.

Package agencies in the resort are allowed to sell alcohol on Sundays and holidays. (Lines 1559-1564)

**A CONVENTION CENTER FACILITY MUST HAVE A TOTAL OF AT LEAST 30,000 SQUARE FEET TO QUALIFY FOR AN ON-PREMISE BANQUET LICENSE**

This is in response to the ABC Commission's recent rule change to allow smaller venues like the Gathering Place at Gardner Village and the banquet facility at "LaCaille" to qualify as a "convention center" to receive a banquet

license. The bill "grandfathers" those facilities that already received a banquet license that was in effect on May 11, 2009, but ends the "grandfathering" on October 31, 2011. (Lines 2811-2813; and 2931-2939)

**CLARIFIES THAT DABC ADMINISTRATIVE ACTIONS ARE CIVIL IN NATURE AND THAT CRIMINAL PRINCIPLES & PROCEDURES DO NOT APPLY EVEN IF THE VIOLATION BEING ADJUDICATED IS BASED ON A STATUTE THAT CAN BE PROSECUTED CRIMINALLY. BURDEN OF PROOF IS PREPONDERANCE OF THE EVIDENCE. A FINDING OF MENTAL STATE (KNOWLEDGE OR INTENT) IS NOT REQUIRED TO PROVE A VIOLATION UNLESS EXPRESSLY MADE AN ELEMENT OF THE VIOLATION BY STATUTE.** This is in response to the Utah Supreme Court decision in the Southern X-Posure case. (Lines 1218-1238; 5482-5488; 5534-5555)

**ELIMINATES THE REQUIREMENT THAT THE DABC AFFIX AN OFFICIAL STATE LABEL TO ALL LIQUOR BOTTLES & CONTAINERS.** (Lines 5592, 5602, and 5898-5923)

**PROHIBITS TAMPERING WITH THE CONTENTS OF A PACKAGE OF ALCOHOLIC BEVERAGE AS ORIGINALLY MARKETED BY A MANUFACTURER (I.E. REFILLING BOTTLES, MISREPRESENTING THE BRAND, SELLING A BRAND THAT IS NOT THE SAME AS WHAT THE CUSTOMER ORDERED).** (Lines 5692-5724)

## REQUIRES THE ABC COMMISSION TO CONDUCT A STUDY OF THE PENALTIES THE COMMISSION HAS IMPOSED FROM JANUARY 1, 2005 TO DECEMBER 30, 2008 FOR VIOLATIONS RELATING TO MINORS.

The study must address trends, if any, in the severity of the penalties; circumstances affecting the penalties imposed; the purpose and effectiveness of the penalties; other issues as determined by the commission; and whether the commission should recommend legislative action related to the imposition of a penalty. The commission must report its findings and recommendations to the Business and Labor Interim Committee on or before the October 2009 interim meeting. (Lines 5898-5823)◆

## Conditional licensing for full-service and limited-service restaurants; and allowing an investigator access to information in clubs and taverns

H.B. 352 (Rep. Dunnigan)

The commission is authorized to issue a conditional license to a person who is building a restaurant that is not yet open for business. This allows the commission and department to conduct preliminary investigations and inspections to ensure that the person qualifies for a license and that the business is not precluded from selling alcohol because of possible proximity issues to schools, churches, parks, playgrounds, and libraries. After the conditional license is issued, the person will be issued a valid license by the DABC to sell alcoholic beverages once the person has obtained a current business license and provides evidence that there has been no change in the

information provided to the commission when the conditional license was issued. A conditional license expires after six months unless it becomes a valid license before then.

An auditor or inspector employed by the DABC, or a peace officer, examiner, or investigator employed by another state, county, city, or town agency may have access to records, including electronic records such as video surveillance tapes kept by clubs and taverns. The investigator, with probable cause that a violation may have occurred, may "inspect, have a copy of, or otherwise review" any record that is a visual recording of the **operation of the business**.

### Guest Article...

## Don't Play Russian Roulette with Your Alcohol Advertising

By Rachele Milbank, Communication Specialist, Unspam Registry Services, a contractor for the State of Utah's Division of Consumer Protection that handles the community and corporate communications for the Utah Child Protection Registry.

If you operate a local winery, corner pub, or restaurant, and advertise weekly drink specials or promote your latest products, you might want to take a closer look into one of Utah's unique programs that may be affecting your marketing practices.

Utah is one of two states that have "do-not-contact" laws that allow families to restrict certain advertisements from reaching their homes. Companies and marketers who are advertising alcohol, as well as any other products and services that are illegal for a minor to purchase or sell in the State of Utah, should be aware of the Utah Child Protection Registry and the laws that support them.

The Utah Child Protection Registry is a do-not-contact program for families and schools in Utah. Residents

can register parental, family, and children's e-mail addresses, mobile phone numbers (SMS), instant messenger IDs, and fax numbers. Schools are also able to register their school domains, including students, teachers, and staff. The law covers both solicited and unsolicited advertisements.

The state program is administered by the Division of Consumer Protection and enforced in conjunction with the State Attorney General's Office, and those who are sending to registered addresses risk facing civil and criminal penalties by state officials or lawsuits by private parties.

Senders of messages that fall under the Utah Child Protection Registry and the compliance requirements should be checking their solicitation lists to the state Registry every 30 days. This assures the removal of all current and newly added addresses.

More information can be found out at <https://DoNotContact.Utah.gov/compliance>.

## Enhanced Penalties for Minors

### Additional penalties for minors who drive with a detectable amount of alcohol

H.B. 21 (Rep. Greenwood)

A minor who has had his/her driver license suspended for operating a vehicle with a detectable amount of alcohol may seek reinstatement of the driver license.

However, the reinstatement is contingent upon the minor's completion of an action recommended by a local substance abuse authority or substance abuse program within five years after the effective date of the license sanction.

### Enhanced penalties for minors who violate the ABC Act

H.B. 129 (Rep. Oda)

If a minor violates:

(1) the "proof of age" provisions of the ABC Act (32A-1-301);

(2) the unlawful purchase, possession, or consumption by minors law (32A-12-209); or

(3) the unlawful admittance or attempt to gain admittance by a minor law (32A-12-209.5) the following penalties apply:

(1) first violation - class B misdemeanor

(2) second violation - class A misdemeanor

(3) third or subsequent violation - class A misdemeanor and the court may impose:

- (i) a fine of up to \$5000;
- (ii) screening, assessment, or substance abuse treatment as defined in 41-6a-501;
- (iii) an education series as defined in 41-6a-501;
- (iv) alcohol beverage related community service or compensatory-service work program hours;
- (v) fees for restitution and treatment costs;
- (vi) defensive driver education courses; or
- (vii) a combination of these penalties; and

(4) if the minor is at least 13 but younger than 18, the court shall forward the "record of adjudication" in accordance with the Juvenile Court Act to the driver license division and the provisions regarding suspension of a driver's license under 78A-6-606 apply (i.e. one year suspension of driving privilege);

(5) if the minor is at least 18 but younger than 21, the court shall forward to the driver license division the "record of conviction", and that division shall suspend the minor's

driver license under 53-3-220 (i.e. one year suspension of driving privilege);

(6) if the minor is subsequently arrested or convicted of a driving offense during the suspension period, the suspension shall be extended for an additional like period of time; and

(7) the court must enter a judgment of conviction (no plea in abeyance).

In addition to the above penalties, if a minor uses proof of age in violation of the "proof of age" provisions of the ABC Act (32A-1-301)(i.e. false ID), and a DABC licensee is assessed a fine or administrative costs for selling, serving, or otherwise furnishing alcohol to a minor; purchasing or obtaining alcohol for a minor; permitting a minor to consume alcohol; permitting a minor to gain admittance into an area where the minor is not permitted; or offering or providing employment to a minor that may not be obtained by a minor, then the minor is liable to the DABC licensee for ½ the fine, administrative costs, and attorney fees incurred by the licensee to collect the amount owed by the minor.

The licensee may bring an action in court to collect the amount owed. The action may be brought against the minor, or the parent or guardian of the minor if the minor is under 18. (This does not apply if the minor is a ward of the state or an agency of the state). The suit must be brought within two years after the fine is imposed by the commission. The minor may bring a cause of action against a third party (other than the licensee or employee or agent of the licensee) who caused the liability (i.e. an adult who facilitated the minor getting into the bar, or obtaining alcohol).

### Increased driver license suspension periods for certain DUI offenses

S.B. 272 (Sen. Jenkins)

(1) If a minor is found by a court to have unlawfully purchased, possessed, or consumed alcohol in violation of 32A-12-209, or entered or attempted to enter a social club or tavern in violation of 32A-12-209.5, and it is the minor's second or subsequent violation, the court:

(a) shall order the minor to participate in an educational series as defined in 41-6a-501; and

(b) may order the minor to participate in a screening as defined in 41-6a-501.

If the minor is at least 18, but younger than 21, the court shall suspend the minor's driving privileges under 53-3-219. The court may reduce the suspension period if it is the

minor's first violation if the minor completes the educational series.

(2) Commencing July 1, 2009, driver license suspension periods listed in 41-6a-509 for DUI or for driving with any measurable controlled substance in the body listed in 41-6a-517 are increased as follows:

(a) if an adult: 120 days for a first time offense; two years if previously convicted within 10 years

(b) if a minor: 120 days or until the person is 21 (whichever is longer) for a first time offense (or deny the application for a license or learner's permit for the same amount of time); two years or until the person is 21 (whichever is longer) if previously convicted within 10 years.

## Home Production of Fermented Alcohol

H.B. 51 (Rep. Christine Johnson)

Persons may produce beer, heavy beer, or wine (but not distilled beverages) in their own home without having to get a manufacturer's license, but only under the following conditions:

- (1) the individual must be 21 years or older;
- (2) the individual may manufacture no more than 100 gallons in a calendar year (200 if there are two or more adults in the household);
- (3) the beverage may only be manufactured and used for personal or family use and consumption, including use at an organized event where fermented beverages are judged as to taste and quality;
- (4) the beverage may not be sold or offered for sale or be consumed on a premises licensed by the commission;
- (5) the beverage may be removed from the individual's residence for personal or family use, or transported for use at an organized event where the beverage is judged as to taste and quality if:
  - (a) it is transported in compliance with Section 41-6a-526 (Utah's open container law);
  - (b) if removed for personal and family use, for each adult individual residing in the household:
    - (i) one liter of wine;
    - (ii) 72 ounces of heavy beer; or
    - (iii) 72 ounces of beer
  - (c) for on-premise consumption at an organized event where the beverages are judged:
    - (i) one liter of wine for each wine category in which the individual enters – except that the individual may not remove wine for more than three categories for the same organized event;
    - (ii) 72 ounces of heavy beer for each heavy beer category in which the individual enters – except that the individual may not remove heavy beer for more than three categories for the same organized event;
    - (iii) 72 ounces of beer (under same conditions as for heavy beer);
- (6) A partnership, corporation, or association may not manufacture a fermented alcoholic beverage for personal or family use and consumption without obtaining a manufacturer's license, except that an individual who operates a brewery may remove beer from the brewery for personal or family use in the above amounts.

## Social Host Liability Act

H.B. 313 (Rep. Hutchings)

In addition to any other civil or criminal penalties, an individual who knowingly conducts, aids, or allows two or more minors to engage in an underage alcohol drinking gathering can be legally responsible for:

- (1) the actual costs directly associated with an emergency response provider (not including salary and benefits of an emergency response provider for the time spent responding and administrative costs);
- (2) the costs of medical treatment to or for an emergency response provider who is injured; and
- (3) the costs of repairing damage to equipment or property

## DUI Convictions

S.B. 116 (Sen. Liljenquist)

Clarifies that the definition of "conviction," for purposes of certain driving under the influence provisions, only includes convictions arising from a separate episode of driving. Also clarifies that a person is guilty of a separate offense for each victim suffering bodily injury, serious bodily injury, or death as a result of the person's violation of the DUI or automobile homicide provisions whether or not the

of a local entity.

Law enforcement may also issue a citation to the individual. The individual is subject to a civil fine of \$250 for a first citation and the penalty doubles for each subsequent citation. The individual is also liable for any response costs up to \$1000. The individual is responsible even if not present at the underage drinking gathering. Two or more individuals are jointly and severally liable for the costs.

If a minor is issued a citation, the minor's parent or legal guardian is not liable for any civil penalty imposed on the minor. Procedurally, the local entity sends notice of what is owed, and the individual must pay within 90 days from the date on which the notice is sent. The local entity may reduce the amount of the civil penalty or negotiate a payment schedule.

injuries arise from the same episode of driving. Also clarifies that a person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's violation of the prohibition on driving a vehicle in a negligent manner and having a measurable amount of a controlled substance in the person's body whether or not the injuries arise from the same episode of driving.

## "Fringe Gambling"

S.B. 169 (Sen. Liljenquist)

For purposes of Utah's gambling statute (76-10-1101), gambling includes a lottery and "fringe gambling." "Fringe gambling" is defined as any gambling, lottery, or video gaming device which is given, conducted, or offered for use or sale by a business in exchange for anything of

value, or given away incident to the purchase of other goods or services. "Fringe gambling" does not include a gambling, lottery, video gaming device, or other promotional activity which is clearly occasional and ancillary to the primary activity of the business. This bill takes effect April 1, 2010.

## Club License Renewals

by Keith Zuspan, Neil Cohen, and Abe Kader

**C**lubs can choose to renew their license online or the conventional (paper) method.

### Online Renewal - How it Works!

The new system allows you to submit your renewal application electronically beginning May 1, 2009 through June 1, 2009. Remember the deadline to complete your renewal is Monday, June 1.

Renewing your license online is simple and efficient. The process requires you to enter online information from the renewal materials mailed to you by DABC, verify and update your unique license information, answer a few questions, pay your renewal fees and print a copy of your submission and payment. The payment feature for your convenience accepts debit/credit card (Visa, Mastercard, American Express, Discover) or an electronic check.

You may *not* be able to renew your license online due to changes in operating entity, changes of corporate officers/directors, or relocation of your business. If that is the case, please complete the paper renewal form (see below).

### Paper Renewal

All licensees will receive a paper renewal packet with forms A, B, and C (with preprinted license data), D (alcohol server training information), E (financial spreadsheet), and F (the online instructions). If you are completing a paper renewal, please note that you only need to submit the renewal fee, Forms A, B, C, and E, and any background check documents and fees that are required. Background check information and instructions will be in the packet.

Forms A, B, and C will be pre-printed with data that you submitted for last year's renewal or in your initial application. You will only need to make changes to those forms if the data has changed or is incomplete.

Please remember, you must mail or hand in your completed renewal application by **Monday, June 1**. This deadline is set by the legislature and we can not extend it. If you miss this deadline, you may not *renew*. You will have to *re-apply* for your license. This means you will have to pay for an additional application fee and initial license fee. Please do not wait until the last minute.

You may either hand deliver (by **6:00 pm on June 1**) the completed renewal or **we will accept a postmark** up to and including **June 1** as timely.

### Renewal Fee

The new law (SB187) establishes a renewal fee of

\$1,600 for all clubs.

### Follow-up

Either way you choose to file your renewal and after the renewal process, you may be asked by your compliance specialist to submit additional information such as local business/alcohol license(s), an ACORD type Certificate of Insurance (for general and liquor liability coverage), or alcohol server training records (form D).

If you do not receive renewal materials in the mail by the *second* week of May, please call (801) 977-6800 to obtain a copy of your license renewal packet and your online renewal ID number.

As a reminder, information you provide is for the sole use of the DABC. Personal information submitted online is protected. The State of Utah and Utah.gov take your internet security very seriously. Our technology and policies are designed to make your online transactions safe, private, and secure. Rigorous policies and procedures are utilized to safeguard your personal information, such as social security numbers, banking information, and personal data.

### Tax Delinquencies

Licenses can not be renewed unless tax delinquencies are cleared. The law specifies that, "Each applicant for a license and each licensee shall comply with all applicable federal and state laws pertaining to payment of taxes and contributions to unemployment and insurance funds to which it may be subject." (32A-1-123 Utah Code)

If you have a delinquency, you will receive a notice directly from the Tax Commission regarding sales tax or payroll withholding tax, the Labor Commission, Division of Industrial Accidents regarding workers compensation coverage, or the Department of Workforce Services regarding unemployment insurance tax.

If you have any deficiencies with these departments, they will let you know who to call and what you need to do to bring your account back into good standing.

### Club Transition Period

Class A and B private clubs renewed during the June renewal period will automatically convert to Equity clubs and Fraternal clubs respectively effective July 1.

Class C and D private clubs private clubs that are renewed during the June renewal period will automatically convert to dining and social clubs. At that time, these clubs may also request to convert to a different type of club license. The new license will be effective on July 1, 2009. The conversion does not require a redetermination of proximity requirements.♦

***The Alcoholic Beverage Control Commission meets once a month toward the end of each month. Meeting dates and times are subject to change.***

***The meetings are open to the public and are held in the board room at the DABC office building: 1625 South 900 West, Salt Lake City.***

***Call 801-977-6800 for the current schedule.***

## Violations and Penalties

by Chris Johnson

Below is a list of the most recent violations and penalties assessed for all licensees. Please review the violations listed below with your staff to prevent similar violations from occurring in your own establishment. As you can see by the number of alcoholic violations listed, law enforcement agencies have been very active. PLEASE BE CAREFUL!!

CL = Private Club Liquor  
RE = Full Service Restaurant  
SE = Single Event Permittees

BE = On-Premise Beer  
RL = Limited Service Restaurant  
BW = Beer Wholesaler

TV = Taverns \* = Prior Violation History  
TB = Temporary Beer Permittees  
AL = Airport Lounge

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
CL	D.J.'s Private Club, Taylorsville	1. Promotion offering free drinks	1. Written warning
CL	Pete's Bears Den, Magna	1. Promotion offering free drinks	1. Written warning
CL	Duces Wild, Salt Lake	1. Sale to intoxicated persons 2. Allowing patrons to leave with open containers	1. Dismissed 2. Fine of \$500.00 plus costs
BE	Sarah E Ellis (former employee of Alpine Internet Café, Park City)	1. Sale to minors	1. Fine of \$75.00
CL	Kristauf's Martini Bar, Park City and Daniel J Chase (employee)	1. Sale to minors 2. No ID badge	1. Fine of \$1,000.00 plus costs 2. Written warning
RE	Main Street Pizza & Noodle, Park City and Hactor M Suarez (employee)	1. Sale to minors *	1. Fine of \$2,000.00 plus costs
TV	Old Town Tavern, Midvale	1. Gambling on the premises	1. 15 day license suspension and surrender of the license plus costs
BE	Winger's, Draper and Chase W Watson (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RL	Oishi Sushi Bar & Grill, Park City and Erdennechimeg Bayar (employee)	1. Sale to minors 2. No ID badge	1. Fine of \$1,000.00 plus costs 2. Written warning
CL	Cruzrs Saloon, Holladay	1. Sale to intoxicated persons 2. Non-member entry & sale ***	1. Dismissed 2. Fine of \$1,500.00 plus costs
CL	El Mirador, Ogden	Case #1 1. Sale to intoxicated persons 2. Sale to minors & minors on the premises of a class "D" club 3. Employee consuming on duty 4. Non-member entry & sale * 5. No license displayed 6. No ID badge Case #2 1. Allowing patrons to leave with open containers 2. Minors on the premise of a class "D" club 3. Non-member entry & sale *** 4. No ID badge	Case #1 1. 10 day license suspension and a fine of \$3,000.00 2. Fine of \$3,000.00 3. Fine of \$1,000.00 4. Fine of \$750.00 5. Written warning 6. Fine of \$100.00 Case #2 1. Fine of \$500.00 2. 10 day license suspension 3. Fine of \$1,000.00 4. Fine of \$500.00 plus costs
CL	First Press, Salt Lake and Elizabeth B Knowlton (employee)	1. Sale to minors & minors on the premises of a class "D" club 2. Non-member entry & sale	1. Fine of \$1,000.00 2. Fine of \$250.00 plus costs
CL	Mynt Martini Lounge, Salt Lake and Hank S McHenry, Richard McHenry and Langford O Meeks (employees)	1. Allowing lewd acts 2. Attire & conduct violations 3. Allowing lewd acts 4. Allowing lewd acts 5. Stage approval not received 6. Allowing lewd acts 7. Non-member entry & sale	1-6 30 day license suspension and surrender of the license 7. Fine of \$250.00 plus costs
RE	Old Bridge Grille, Mexican Hat and Ronalda Holiday (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RE	Texas Roadhouse, St George and Jenny R Coombs (employee)	1. Sale to minors	1. Fine of \$1,000.00 plus costs
RL	Thai Place & Sushi, St George and Rachel Backman (employee)	1. Sale to minors 2. Untrained server 3. No ID badge	1. Fine of \$1,000.00 2. Fine of \$150.00 plus costs 3. Written warning
RE	Applebee's, Midvale and Jessica K Clark (employee)	1. Sale to minors	1. Fine of \$1,000.00 plus costs
RE	Asian Star, Midvale and Katie L Leonard (employee)	1. Sale to minors	1. 5 day license suspension
CL	Rock Bottom Bar & Grill, Midvale and Richard Kemp (employee)	1. Sale to minors & minors on the premises of a class "D" club 2. Non-member entry & sale	1. Fine of \$1,000.00 2. Fine of \$250.00 plus costs
RL	Stephanie N Adams (former employee of Pie Pizzeria, Midvale)	1. Sale to minors	1. Fine of \$100.00

## Missing Employees

The DABC is attempting to locate the following individuals that either currently or previously worked for the licensees listed below. We have adjudicated violations with the licensees, but the employees either could not be located or did not attend the proceedings when the violations were adjudicated. If any of these employees are currently working for your business, please have them immediately contact Ed Lombard at the Utah Attorney General's Office at 801 366-0157.



Stan G. Allen - The Standard  
 Cynthia M Anderton - Applebee's (West Valley)  
 Michael R. Arcaris - Squatter's Pub  
 Braeden M. Brinton - The Standard  
 Sara Bryson - Mimi's Café (Orem)  
 Catherine Clark - Goldbar Saloon  
 David Durrant - Tucci's (Salt Lake)  
 Kristina M. Erskine - Asuka Japanese Sushi  
 Robert J. Gardner - Juhl Haus Deli & Market  
 David Homer - One & Only  
 Charles Lamb - Jeremy Golf & Country Club  
 George H. Lasater - Eddie McStiff's  
 Lacey B. Miller - World Famous Woody's Tavern  
 Bryce Pearson - Old Spaghetti Factory (Salt Lake)  
 Courtney J Rios - Art's Place  
 James D. Santini - P.F. Chang's (Orem)  
 Kate Christianson - Chili's (St. George)  
 Sean Hill - Chili's (St. George)  
 Jared B Hileman - Shaggy's Livin Room  
 Karen Buschman - Players Sports Grill  
 Whitney Hathaway - Gladstan Golf Course  
 "Sherry" - Lumpy's Downtown  
 Danielle Sims - Sportsman's Lounge

"Bubba" - Sportsmans' Lounge  
 Vincent Laguardia - Alpine Internet Café  
 Troy Mattinson - Applebee's (St George)  
 Monica M. Salazar - Cheater's Lounge  
 Susan Pontius - Applebee's (Orem)  
 Alicia Bowman - Palms @ Holiday Inn  
 Laurie A .Johnson - Don Jose Mexican Restaurant  
 Jason M. Green - Sunset West Bowling Center  
 Jeffery S. Anderson - La Frontera (Bountiful)  
 Clay Petty - World Famous Woody's Tavern  
 "Julie" - Jessie's Bar & Grill  
 Billie Jo Lange - Outback Steakhouse (St George)  
 Brenda Conners - Papa Joe's  
 Kathy Walton - Chili's, Midvale  
 Natalie Oswald - Hog Wallow Pub  
 Kristan Holeman - Jersey's Sports Grill  
 "Mark" - Davis County Conference Center  
 Bradley M Wood - Circle Inn  
 Chase W Watson - Winger's (Draper)  
 Hank McHenry - Mynt Martini Lounge  
 Richard McHenry - Mynt Martini Lounge  
 Langford O Meeks - Mynt Martini Lounge



DABC administrative office hours:  
 Monday – Thursday, 7:00 am to 6:00 pm. Closed Fridays

DABC warehouse hours: Monday – Friday, 5:00 am to 2:30 pm

Liquor stores will be open regular hours Monday - Saturday.  
 Closed Sundays and holidays

The Licensing Newsletter is published every four months by the State of Utah, Department of Alcoholic Beverage Control, P.O. Box 30408, Salt Lake City Ut, 84130-0408. Telephone: 801-977-6800, Fax: 801-977-6888, e-mail: [hotline@utah.gov](mailto:hotline@utah.gov)  
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**From the archives:** We thought you may enjoy this (somewhat prophetic yet tongue-in-cheek) article from an April First newsletter of the pre-Olympic days....

The following article was published in the April 1, 2001 issue of The Spirits Speak and is reprinted with permission.

## Olympic Changes to Liquor Laws are Looming

Special to The Spirits Speak by Neil Cohen

SALT LAKE CITY, UT April 1, 2001 –

The Utah Legislature, in a secret midnight special session, passed an omnibus bill that puts into effect several liquor control act amendments designed to welcome the world in 2002. "Frankly, we got a little tired of fighting this, and we decided, what the heck", said a high-ranking legislative official.

The joint Senate and House Bill number 80 - **Positive Reformulation Of Omnibus Features, or The 80 PROOF Bill**, was passed unanimously and signed by the governor. Hoisting a flute full of bubbly, the governor said, "Ok, now we can really light the fire within!"

Funding was provided for three new 24 - hour State Liquor "Super Stores". One, in Salt Lake City will be on Main Street, kitty corner from Bud World (with validated parking), and another will be located in Park City adjacent to the huge sports park parking lot, and the third one will occupy the entire lower level of the Ogden City Mall.

Each store will have a "try before you buy" tasting area, staffed by industry reps who will share information about the quality and characteristics of their products with prospective customers. Dubbed, "The Pour and Bore Bar", it promises to be very popular.

Another change, hailed as long overdue by the minority whip (whatever that is), is the phase-out of 3.2% beer. All beer sold in Utah will be "real beer" and will be available in grocery stores where it belongs (cheap and cold). In a failed lobbying attempt, this provision was heavily opposed by the Retailers Association of Evanston, West Wendover & Mesquite. Free passes to the race track and rolls of nickels just couldn't hold up to Jazz tickets.

A major provision of the bill that will be most obvious to consumers, both residents and visitors alike, sounded the death knell for the private club licensing scheme. "What's so private about them?" asked the majority whip (same as the minority whip but has a bigger whip). "We're going to do to the club system what we did to the Mini-Bottle ten years ago... get rid of it...almost",

she said. "We left in a section of the laws that allow real clubs to exist - like fraternal organizations, equity clubs, and country clubs, as long as women can get tee times on Saturday mornings."

The legislature held firm on keeping State Liquor Stores closed on Sundays, but in a compromise effort, allowed package agencies in resort and tourist areas to remain open on Sundays and Holidays. Then by statutory definition, they included the entire state as a tourist area (except Carbon County, where the liquor stores have always been open on Sundays and Holidays anyway).

"Meters? We don't need no stinkin' meters!" That was the rallying cry of the faction advocating fair portion sizes. "It's embarrassing to put a big olive in a small martini glass to make the drink look bigger", said the President of the Society of Undersized Sipping Experiences (SOUSE). Evidently, a powerful legislator who was sick of playing the "side-car" game, slipped the "free-pour" amendment into the bill. Most of the dozing lawmakers didn't even give it a second thought when one got up and said, "I support the Freeport Center, it's good for the state." The amendment carried unanimously.

With a tip of the hat to the first amendment of the U.S. Constitution, the liquor advertising prohibitions were repealed. In a brilliant revenue enhancement maneuver, lawmakers added a ¼ of one percent sales tax on any alcohol beverage ads placed in print, broadcast, or billboard media. "They ran that one by us. The writing was on the wall. We were going to lose that lawsuit anyway, either by the end of this or the next decade. And besides, we already allow beer ads", said the Deputy Attorney General's assistant. "We figured we'd cut our losses, add the tax, and beef up the school lunch fund."

These are just some of the sweeping changes that were included in this bill. With TV lights glaring, the legislators emerged from their chamber and hailed their efforts as finally bringing Utah into the 20<sup>th</sup> century. A television reporter pointed out that we're in the 21<sup>st</sup> century, whereas the drafting committee chairman replied, "We are?"♦



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**THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

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