

STATE OF UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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VOLUME: 20

ISSUE: 1

When We Hit Quota

Reminders from the Staff

The DABC Commission meets monthly to consider licensing applications. In order to be issued an alcoholic beverage license, a **complete application needs to be submitted by the 10th of the month** and the processing thereof, completed prior to the meeting which takes place later in the month. Licenses are granted by the commission based on evaluation factors which include but are not limited to such things as location and physical characteristics of the premises, management experience and nature or type of operation, as well as public input.

Availability can also be a factor for some license types which are based on a quota system, meaning that **there can only be a certain number issued throughout the state at any time**. Basically, the estimated statewide population figures are divided by numbers determined by the legislature, which vary per license type. The number of licenses available are adjusted monthly prior to the commission meeting to determine how many will be available for those applicants being considered. An increase in the availability of licenses comes with estimated growth in population and when a license is relinquished due to a business closing or changing ownership. Availability is then decreased by the number of applicants who receive their licenses, and the cycle continues.

Those types of licenses which are affected by the quota system are: **clubs, full-service restaurants, limited restaurants, on premise banquet, and taverns**. State liquor stores and package agencies also have limits on how many there can be, however they are not actually considered licenses.

On premise beer retailer licenses other than taverns, are not under a quota system and

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The Licensing Newsletter is published twice a year 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 Website: www.abc.utah.gov

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may be applied for and issued without availability being a factor. **Whenever availability of another license type becomes very limited, an applicant may wish to also apply for an on premise beer license. This is an option which would allow for beer to be sold at the establishment, in case the other license is not issued.** The preferred license application is then held over to be considered again at the commission meeting the following month.♦

New Quota Law



Most licenses that allow the sale of alcoholic beverages for on-premise consumption are tied to a statutory quota based on the state's overall population. For example, the total number of club licenses may not exceed more than one for every 7850 persons. **Starting July 1, 2012**, the number of quota licenses will also be directly tied to the number of designated alcohol law enforcement officer positions in the Department of Public Safety (DPS).

Enforcement Ratio - The new law creates an "enforcement ratio" which is based on the total number of "quota retail licenses" available divided by the total number of designated law enforcement officers rounded to the nearest whole number. "Quota retail licenses" include full-service restaurants, limited service restaurants, clubs, on-premise banquet retailers, taverns, and reception centers.

If the enforcement ratio is greater than 52, the commission may not issue a "quota retail license" for the 12-month period beginning July 1 for which the enforcement ratio is greater than 52. The commission may issue a "quota retail license" during the 12 month period if a sufficient number of law enforcement officers are employed so that the ratio is less than 52. The ratio does not include dining clubs in existence as of July 1,

2011, that converted to another type of retail license.

The governor must include a recommendation in his budget for maintaining a sufficient number of alcohol enforcement officers to maintain the enforcement ratio or explain why not. Once the Department of Public Safety certifies the total number of positions designated as alcohol-related law enforcement officers, that department may not use the funding for any purpose other than funding those positions.

Alcoholic Beverage Control Act Enforcement Fund - Starting July 1, 2012, a restricted special revenue fund which equals 1% of the total gross revenue from the Department of Alcoholic Beverage Control's sale of liquor will be credited to the Department of Public Safety for designated alcohol law enforcement positions. This is intended to ensure that the enforcement ratio as of July 1 of each year is equal to or less than 52.♦

The DABC's goal as a licensing agency, is to keep you in business and in compliance with alcoholic beverage laws. Hopefully, this Newsletter will help accomplish this goal. We urge you to read and then share this Newsletter with all of your employees involved in the sale and service of alcohol. We also encourage you to contact our Licensing and Compliance Division at (801) 977-6800 or e-mail us at hotline@utah.gov if you have any questions about any of these laws <http://www.abc.utah.gov>.♦

What Happened with the Transfer (Sale) of DABC Licenses?

Utah laws have prohibited holders of licenses issued by the DABC commission from selling the licenses to other persons. By law, the licenses have had no monetary value, and had to be surrendered back to the commission for re-allocation. Last year (2011) the legislature had passed a bill that would permit license holders to sell their licenses with an effective date of July 1, 2012. **THIS HAS ALL CHANGED!** With the most recent summer special session and **SB 4001** which passed, and was signed into law by the Governor, on June 25th of this year, the 'Transfer of License Act' **has been put on hold until July 1st 2013**. Following is an update to what SB 4001 has changed for us going forward...

Here is a summary of where we are now:

If approved by the DABC commission, a retail licensee may still apply to transfer their license from one location to another, or apply to sell their establishment to another person or entity in the old manner of 'change of ownership', to someone who qualifies to apply for a change of ownership.

- A change of ownership is **NOT** guaranteed, especially when the license type is at quota. Rather, a qualifying applicant, with a complete application, makes a good candidate for consideration by the DABC commission as they have an establishment with a proven track record and operational history.
- A change of ownership for clubs are now possible as the over allocation from the previous year was remedied with a population adjustment July 2012, bringing the total available to zero.
- Transfers must be for the same type of license.
- The transferee must qualify to hold the license.

The special session bill also increased available restaurant and limited restaurant licenses to alleviate a backlog that was thought to be hindering economic development. The increase came about by changing the population quota thereby requiring that for full service restaurants the state population be divided by the number 4,534 and for limited service restaurants by the number 7,493. As many have read elsewhere, this action increased the number of full service restaurant licenses by 50, while adding another 40 limited service restaurant licenses. As a concession to those who resisted the idea of increasing license availability, the bill establishes 4 new alcohol related law enforcement officers, with a primary focus on the enforcement of laws in relation to restaurants. To provide for the cost of the changes, the legislature increased the fees for the application and renewal processes as follows;

- Full service restaurants now have an application fee of **\$330**, and an initial license fee of **\$2,200** With renewals structured based on the previous year's cost of liquor.

✓ Under \$5,000	\$935
✓ \$5,000 to \$10,000	\$1,155
✓ \$10,000 to \$25,000	\$1,650
✓ In excess of \$ 25,000	\$1,925

- Limited service restaurants now have an application fee of **\$330**, have an initial application fee of **\$825** with a renewal fee of **\$605**
- Beer only restaurants now have an application fee of **\$330**, with an initial application fee of **\$825** and a renewal fee of **\$605**



In February of 2011, a 16 year old student from Copper Hills high school was found dead in a West Jordan field. His death was a result of over consumption of alcohol, resulting in alcohol poisoning and hypothermia. As a typical teen, "he loved playing the guitar, was a great big brother, and loved his friends and family. He excelled at school and also loved video games." He also had the misfortune of experimenting with alcohol with a group of other boys. His mother Bobbi, who works in the industry, and who thought her son knew better, shares her experiences below.



BRAXTON'S UNDERAGE DRINKING STORY

By Bobbi

On the night of Feb. 4th, 2011, I said goodbye to my son for the last time. On this day, my 16-year-old son returned home from school and asked to go hang out with friends later. I asked him who was going and what their plans were. He said that they were going to go eat and rent some movies or play some video games. I dropped Braxton off at his friend's around 5pm. I told him I would pick him up at 10pm. I hugged him goodbye, not knowing it was the last time I would see him alive.

Around 7pm I called and checked on him and reminded him I would pick him up at 10pm. About 9:45pm I texted him to let him know I was on my way to pick him up. I went to the home he was supposed to be at and no one was home. I began calling and texting him to see where he was, but still no answer. I thought maybe they were running late or something but Braxton usually would at least text me and let me know what was going on. By now it's 11pm. I'm extremely worried. He's never been late or not answered me. I then began texting and calling all of his friends that were with him that night. Still no one was answering. I decided to go drive around to all the areas I knew that they would go to or hang out.

After a while of driving around, I returned home to see if he had made it home. When I returned home he still was nowhere to be found. I decided to call and text the boys again. I continued driving, calling and texting throughout the night. Around 2am, I

contacted the police department but was told he had not been missing long enough and since he was a teen I had to wait. By now I'm frustrated and worried beyond belief. I decided to pull up our cell phone bill and look at his call log. I then started calling every number on it that I had not already called. I asked everyone and anyone if they had seen him or knew where he was. No one that I talked to had any information. At this time it's now 8am, and I still had not heard anything. Finally, a friend who had been with him called me back. I asked him if he was with him or knew where he was. He told me he had last seen him the night before, around 11-12 pm, when he left him. Braxton had stayed back with another friend. This friend, I had never met and never had heard his name. Braxton knew him from the other boys, as he did not attend the same school. While talking to the friend that called me, I asked for the boy's number that was last seen with Braxton or a parent's number. He gave me the parent's number. I called these parents and talked with them. They said that their son did not make it home either. They then explained that their son had been in some trouble with drugs and alcohol and had been known not to come home sometimes. I explained that Braxton had never even been late and this was very unusual for him. This parent then proceeded to tell me that their son was not a good kid and that I should not let Braxton hang out with him anymore. When I heard these words I knew something was terribly wrong as my stomach sank and my heart dropped. My greatest fear was about to come true.

Around 11am the friend that had called me earlier called back to say he and his mom were going to go look for the wallet he had lost the night before and would check out where they were hanging out and call me back. About 15 minutes later I received the call that my son had never left this area the night before and he was not breathing. I immediately rushed to where they were. The boys had been drinking in a field the night before and Braxton lay there lifeless by the railroad tracks, blue and not breathing. Though I tried to revive him, it was too late. As the boy and his mother and I looked around, we noticed that the friend's shoe, who he was last seen with, was lying by Braxton. The police and ambulance had now arrived. While the police officer and us were walking around, the police found the friend lying about 500 ft. from Braxton, barely breathing. He was rushed to the hospital. As they were leaving, they said it didn't look good for him either. As we were waiting for the crime unit to arrive I knelt there staring at my baby boy, all black and blue. He looked bruised. I thought, "What in the world could have happened to him?" I asked the boy who helped find Braxton what they had been

doing the night before. He told me that they had been drinking and that he had hugged Braxton goodbye the night before. He did not remember getting home or how he got there, but when he left Braxton he thought he was fine. This friend said when he woke up he could not remember much and that he had dirt and weeds all over his clothes and remembered at one point crawling through the field. He stated they had called the 23-year-old sister of the boy that was found near Braxton and asked her to buy them vodka. She said she did not want to, but ended up doing it because she wanted him to have FUN. This sister brought the alcohol to the boys at a park. They then hid the vodka and went and bought some energy drinks. They returned and were going to have some drinks and then go eat. After a few drinks, the boys realized if they went anywhere they would be caught. By now they were feeling the effects of the alcohol, and mixing it with energy drinks allows the body to not pass out when you normally would. The friend then told me that they were all stumbling and having trouble seeing. They said they did not realize the effects of alcohol until it was too late. The boy found with Braxton ended up making it through. How, we will never know.

Braxton's final autopsy report came back as death due to hypothermia due to acute ethanol intoxication. Once receiving the report I learned that alcohol poisoning causes the body to go into a state of hypothermia. That explained some of the black and blue on him. The bruising was from stumbling around. The dark ears, lips and fingers were due to hypothermia. His BAC was .22. At this point, you have no control over your body. Braxton passed out and succumbed to death. I want to share this story and share all the knowledge I can, so no parent will have to go through this nightmare. Braxton was educated, I thought, to not drink. We had talked about the dangers often, as I grew up with an alcoholic parent and many family members. Braxton had seen and knew first-hand, as my mother had been in a coma month's earlier due to complications of surgery, a result of many years of drinking, that caused her body to shut down. I had also told many stories of growing up around this and how awful it was, but I didn't explain everything because I did not know many of the warnings and dangers that I have, unfortunately, learned later. But I will make sure to share this with everyone I can. There is nothing in this world like seeing the pain and loss in your child's eyes when telling him that his only brother and best friend has passed away; and holding the only child you have left while uncontrollably crying and wishing to take this pain away.

UNDERAGE DRINKING PREVENTION

Parents Play a Critical Role

Parents Empowered is Utah's underage drinking prevention campaign. It is aimed at parents instead of teens, educates adults about the real harms of underage drinking and provides proven parenting skills to help their kids stay alcohol-free.

The power of parents

Parents are the most powerful influence on their children's behavior. Believe it or not, teens still listen to their parents. In fact, kids usually listen to their parents more than anybody else, including friends. Research shows that parental disapproval is the #1 reason kids choose not to drink alcohol.

What's a parent to do?

1. Know the facts.

- Understand how alcohol can harm your child's developing brain.
- Underage alcohol use significantly increases the risk of addiction.
- Underage drinking starts as early as grade school.

2. Build a positive parent-child relationship.

- Eat dinner together, share stories, have pleasant conversation.
- Listen with love, empathy.
- Do activities together.

3. Establish and communicate clear boundaries.

- Set clear "no alcohol" rules and expectations.

4. Supervise and monitor – it lets them know you care about them.

- Know where they are, who they're with, and what they're doing.
- Get to know their friends and help them choose friends wisely.
- Know their online circle of friends too.

For more information visit:



Sponsored by The Utah Department of Alcoholic Beverage Control and Utah Prevention

Please welcome our new Executive Director, Salvador Petilos.



Salvador Petilos is a graduate of Rutgers College, Rutgers University. He studied law at Fordham University School of Law and was engaged in the general practice of law prior to his relocation to Utah.

He studied Political Economy at Utah State University and served as a Health Care Analyst for the Institute of Political Economy and was an Instructor in the Political Science Department.

He has devoted the years since he left USU to public service. He began his career in state government as an Internal Auditor with the Office of the Legislative Auditor General. He then joined the Utah Department of Administrative Services Internal Audit Team and eventually progressed to Director of Internal Audit. He served as Deputy Director of the Department of Administrative Services prior to being appointed Interim Director of DABC.

"I am pleased to have Sal take the helm at DABC. The agency needs someone who can effectively enforce the rules and law with transparency and integrity, and also manage a large distribution operation efficiently. Sal brings the right combination of skills and experience to the post."

-Governor Gary Herbert

SINGLE EVENT & TEMPORARY BEER PERMITS

Event Permits (Single Event and Temporary Beer) can now be approved by the Director of the DABC. However, this process is not instantaneous. The director's approval is subject to a **three business day** review by the Commission. During that period of the time the Commission can request a review of the application **at their next Commission Meeting**. Additionally, the director can at any time refer the application to the Commission for a decision.

It is for these reasons that applicants should try to get their applications to the DABC in a timely manner that would allow review by the Commission if necessary. For example, an event in early December, the application should be received by the 10th of November to ensure adequate time for processing and timely review if necessary.

- Applicants are encouraged to apply by at least the 10th of the month prior to the event.
- **Complete** Applications, including local consent, received in the same month as the event will be considered by the director as long as the event is more than three business days from the date the complete application is received.
- Applicants must understand that there is no guarantee that applications submitted the same month as the application is received will be issued a permit prior to the event date and submit the application at their own risk.

ONLINE RENEWALS for 2012



All Licensee's,

In an attempt to stream line the application process, and allow us at the D.A.B.C. to serve the growing number of license holders efficiently and effectively, changes have been made with the renewal process. This Year, we [staff] are only sending a renewal notice directing licensees to renew online in lieu of a complete eight page packet. The online program now allows the licensee to print their renewal forms for themselves as well.

Renewing online provides advantages to both the licensee and the department. In renewing online, you do not need to (1) find a notary; (2) pay for postage; (3) go to the post office. Additionally an added benefit of renewing online is paying with a credit card, debit card or if you like write an electronic check.

The Initial screen from our website to the Utah Interactive, **this is where you log in**

APPLICATION INFORMATION

- [Alcoholic Beverage Control](#)
- [Alcohol Licensing](#)
- [Frequently Asked Questions](#)

PLEASE LOGIN

License Number:

Renewal ID:

Enter license number CL....

Enter pin number

Licensees flagged in the system by tax, labor and workforce services will view contact information for these entities here. These accounts may still continue through the renewal process, but are expected to contact these agencies to clear any issues.

Inter-Agency Review

This license has been flagged for review. While you will still be able to proceed through the online renewal application to submit your renewal request, please be aware that if you do not clear the flag currently on this license, your license renewal request may be denied. Please contact each of the individuals listed below for further details on how to clear this flag.

Agency	Contact Name	Phone Number
Department of Workforce Services	Kevin Shingleton	801-526-9561
Department of Workforce Services	Lance Soffe	(801) 526-9610

Exit without renewing Continue with renewal

Second screen which historically reads the same as in the past, now provides the option to print a paper copy of the renewal for your records or to provide the application for mail in purposes. The mail in option, is more labor intensive and will require you to complete additional forms for submission, requires the traditional notary, and limits your payment options.

Renewal Eligibility Advisory

The DABC online license renewal application is NOT available for license holders who are:

1. Changing entity types. For example: Partnership to LLC; Corporation to LLC; Sole Proprietor to Partnership, etc.
2. Adding corporate directors, officers and stockholders, partners, LLC members/managers or change of sole proprietors.
3. Relocating the business or changing floor plans.

Licensees that meet the above criteria must submit the paper renewal application along with appropriate supporting documentation.

Access your renewal form here: [Downloadable form](#)

If you are unsure if your license meets any of the criteria outlined above, please contact the Dept of Alcoholic Beverage Control at (801) 977-6800.

By clicking on the continue button below, the user affirms that they meet the DABC online license renewal eligibility requirements as outlined above.

Exit Continue

A friendly reminder that violations do happen. And they happen in a wide assortment of licensee establishments. These are a few of the most recent examples of what law enforcement is seeing while visiting a variety of locations. **PLEASE BE CAREFUL!**

RE	El Matador, Ogden and Jamie Cain (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RE	La Fiesta Mexican Restaurant, Cedar City	1. No server training records on premise	1. Written warning
RE	Café Sabor, Garden City	1. Sale to minors 2. Consuming on duty 3. Freepouring 4. Serving A/B without an order of food 5. Allowing consumption away from table 6. Minors seated at a bar structure	1. Fine of \$1,200.00 2. Fine of \$750.00 3. Fine of \$600.00 4. Fine of \$600.00 5. Fine of \$250.00 6. Fine of \$600.00 plus costs
RE	El Chihuahua, Salt Lake and Roxana Daza, Stephanie Ellis, Robert Green, Warren Ostrander, Shaun Paulos and Victor Quinonez (employees)	1. Allowing patrons to have more than 2.5 oz of spirituous liquor at a time 2. Discounting 3. Engaged in a promotion offering free A/B	1. Fine of \$600.00 2. Written warning 3. Fine of \$250.00 plus costs
RE	La Casa Don Miguel, Cedar City	1. No server training records on premise 2. Warning sign not posted 3. No labeling	1. Fine of \$50.00 plus costs 2. Written warning 3. 5 day license suspension
CL	Huka Bar & Grill, Murray and "Justin", Felicia Francis, Alicia Hill and Nathan Porter (employees)	1. Sale to intoxicated persons 2. Doubles 3. Consuming on duty 4. Allowing patrons to have more than 2.5 oz of liquor at a time 5. Brownbagging 6. Discounting	1. Fine of \$3,000.00 and a 10 day license suspension 2. Fine of \$600.00 3. Dismissed 4. Dismissed 5. Fine of \$500.00 6. Fine of \$250.00 plus costs
RB	Los Coyotes, Kearns	1. Sale to minors	1. Fine of \$1,000.00 plus costs
CL	Westerner Club, WVC	1. Brownbagging	1. Fine of \$650.00 plus costs
CL	'Bout Time Pub & Grub, West Jordan and Justin Holsinger, Brooklyn Lambrose, Larry Mondragon & Anthony Pino (employees)	1. Sale to intoxicated persons 2. Failure to scanning device 3. consuming on duty 4. Freepouring 5. Having more than 2 A/B at a time 6. No flavoring labels 7. Giving away free drinks	1. 10 day license suspension and \$3,000.00 fine 2. Fine of \$1,000.00 3. Fine of \$500.00 4. Fine of \$600.00 5. Fine of \$750.00 6. Fine of \$500.00 plus costs 7. Dismissed

CL	'Bout Time Pub & Grub, Herriman	<ol style="list-style-type: none"> 1. More than 2.5 oz of liquor at a time 2. More than 2 A/B at a time before a patron 3. Freepouring 4. Sale of beer in open container to 1 persons exceeding 2 liters 5. sale to intoxicated persons 	<ol style="list-style-type: none"> 1. Dismissed 2. Fine of \$500.00 3. Fine of \$600.00 4. Dismissed 5. Fine of \$2,500.00 plus costs
RL	Fuji Japanese Steakhouse & Sushi Bar, Sandy and Gui Xian Huang (employees)	<ol style="list-style-type: none"> 1. Sale to minors 	<ol style="list-style-type: none"> 1. 5 day license suspension plus costs
CL	Gateway Saloon, Vernal	<ol style="list-style-type: none"> 1. Minors on the premise of social club 	<ol style="list-style-type: none"> 1. Fine of \$1,000.00 plus costs
RE	La Frontera, Sandy and Griselda Garcia (employee)	<ol style="list-style-type: none"> 1. Sale to minors 	<ol style="list-style-type: none"> 1. 5 day license suspension plus costs
RB	Pitmaster BBQ, Draper and Austin Walker and Grant Woo (employees)	<ol style="list-style-type: none"> 1. Sale to minors 2. Sale by minors 3. Untrained servers 	<ol style="list-style-type: none"> 1. 5 day license suspension 2. 5 day license suspension 3. Dismissed
RB	Wing Nutz, Draper and Anthony Ramos (employee)	<ol style="list-style-type: none"> 1. Sale to minors 	<ol style="list-style-type: none"> 1. Fine of \$3,000.00 plus costs
CL	Silver Dollar Sports Page, Price and "Amanda" & "David" (employees)	<ol style="list-style-type: none"> 1. Sale to intoxicated persons 2. Allowing patrons to leave with open containers 3. More than 2 A/B at a time and more than 2.75 oz of liquor 4. Serving beer in containers exceeding one liter 5. Non-member entry & sale 	<ol style="list-style-type: none"> 1. Fine of \$3,000.00 2. Fine of \$600.00 3. Fine of \$600.00 4. Fine of \$600.00 5. Fine of \$1,000.00 plus costs
CL	Club Vegas, Salt Lake and Heidi Fowler (employee)	<ol style="list-style-type: none"> 1. sale to intoxicated persons 2. More than 2 A/B at a time & more than 2.75 oz of liquor 	<ol style="list-style-type: none"> 1. Fine of \$3,000.00 2. Fine of \$1,000.00 plus costs

Did You Know?

- That UTAH cast the vote that ended the National Prohibition of Alcohol in 1933.
- The twenty first amendment to the U.S. Constitution explicitly confirms the right of states to restrict or regulate the sale of alcohol.
- While some states chose regulation, others clung to prohibition practices & Mississippi was the last state to abandon complete prohibition in 1966!
- There are 17 states in the Union, including Utah, that operate as Alcoholic Beverage Control states. (17 & 1 county in Maryland)
- In 2004, the NABCA found that there are over 500 municipalities that are completely dry, (a dry county is one whose government forbids the sale of alcoholic beverages) and most of these dry counties are found in the south.

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Customer Name
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City, ST ZIP Code