

## BEER WHOLESALERS / 32A-11 - VIOLATION GRID

<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
<b>A. <u>ADVERTISING</u></b>			
1. Improper advertising:			
a. that contains any statement, design, device, or representation that is false or misleading;	32A-12-401(4)	R81-1-17(6)(b), (7)	MOD, *b
b. that contains any statement, design, device, or representation that is obscene or indecent;	32A-12-401(4)	R81-1-17(6)(c), (7)	MOD, *b
c. that refers to, portrays, or implies illegal conduct, illegal activity, abusive or violent relationships or situation, or anti-social behavior;	32A-12-401(4)	R81-1-17(6)(d), (7)	MOD, *b
d. that encourages over-consumption or intoxication, promotes the intoxicating effects of alcohol, or overtly promotes increased consumption;	32A-12-401(4)	R81-1-17(6)(e),(7)	MOD, *b
e. that offers any unlawful discounting practice such as "happy hour", "two for the price of one", or "all you can drink for \$.....";	32A-12-401(4)	R81-1-17(6)(f), (7)	MOD, *b
f. that encourages or condones drunk driving;	32A-12-401(4)	R81-1-17(6)(g), (7)	MOD, *b
g. that depicts the act of drinking;	32A-12-401(4)	R81-1-17(6)(h), (7)	MOD, *b
h. that promotes or encourages the sale to or use of alcohol by minors;	32A-12-401(4)	R81-1-17(6)(i), (7)	MOD, *b
i. that is directed or appeal primarily to minors by: <ul style="list-style-type: none"> <li>(1) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Clause;</li> <li>(2) employing any entertainment figure or group that appeals primarily to minors;</li> <li>(3) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing</li> </ul>	32A-12-401(4)	R81-1-17(6)(j),(7)	MOD, *b
advertising on the comic pages of magazines, newspapers, or			

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\*g - See statute  
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other publications; (4) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other print media, or sponsoring any school, college or university activity; (5) using models or actors in the advertising that are or reasonably appear to be minors; (6) advertising at an event where most of the audience is reasonably expected to be minors; (7) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use by minors.			
j. that portrays use of alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;	32A-12-401(4)	R81-1-17(6)(k), (7)	MOD, *b
k. that contains claims of representations that individuals can obtain social, professional, educational, athletic, or financial success or status or solve such problems as a result of consumption;	32A-12-401(4)	R81-1-17(6)(l), (7)	MOD, *b
l. that requires the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program or other activity;	32A-12-401(4) 32A-12-606(2)	R81-1-17(6)(n), (7)	MOD, *b
m. that implies by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical or sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.	32A-12-401(4)	R81-1-17(6)(o), (7)	MOD, *b
2. Offering alcoholic beverages to the general public without charge.	32A-12-401(4) & (5)	R81-1-17(6)(m), (7)	MOD, *b

**B. AUDIT**

\*a - Class "A" misdemeanor  
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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
1. Falsification/tampering of records.	32A-11-106(6)(b) 32A-12-303 32A-12-304		GR, *b, *d,
2. Failure to maintain records as required.	32A-11-102(1)(k) 32A-11-106(6)(a) 32A-12-506		MOD, *b
3. Failure to maintain bond as specified.	32A-11-102(1)(e) 32A-11-103(8) 32A-11-105		*f
4. Failure to maintain general liability insurance.	32A-11-102(1)(f) 32A-11-103(8)		*f
5. Failure to maintain local licensing.	32A-11-102(1)(d) 32A-11-103(8)		*f
6. Refusing entry to authorized persons to audit, inspect, or review premises or records.	32A-11-102(1)(g) 32A-12-305 32A-13-109		GR, *b
7. Failure to meet any applicable Federal requirements.	32A-1-123 32A-11-103(7) & (8)		*f
8. Failure to comply with State tax and employment laws.	32A-1-123 32A-11-103(8)		*f
9. Failure to maintain a statement of brands.	32A-11-102(1)(h) 32A-11-103(8)		MOD, *f
10. Wholesaling out-of-state beer without a certificate of approval.	32A-11-106(2)		GR
11. Wholesaling beer produced by an in-state brewer who is not licensed by DABC.	32A-11-106(1)		GR
12. Wholesaling to retailers outside the designated geographic area.	32A-11-106(4)		SER
13. Wholesaling to anyone other than a licensed retailer or permit holder.	32A-11-106(3)		GR

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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
14. Unauthorized or inappropriate transfer of license ( <i>change of ownership</i> ).	32A-11-102(3) 32A-11-106(7)	R81-11-2, -3, & -5	GR, *f
15. Change of trade name without Commission approval		R81-11-4	MOD
16. Improper labeling	32A-11-106(8)		MOD
17. Failure to maintain a warehouse / inappropriately transferring beer from the warehouse.	32A-11-106(5)		GR

**C. EMPLOYEE:**

1. Minor employed to handle beer.	32A-11-103(5)(a)(ii)		SER
2. Supervisor or manager convicted of (or arrested for) designated offense.	32A-11-103(2),(3), (8)		*f

**D. LICENSE:**

1. Wholesaling beer without a DABC license.	32A-11-101(1) & (2) 32A-12-202		GR, *b
2. Unauthorized or inappropriate transfer of license ( <i>change of ownership</i> ).	32A-11-102(3) 32A-11-106(7)	R81-11-2, -3, & -5	GR, *f
3. Failure to post suspension sign.	32A-1-119(6)(e)		GR

**E. LICENSEE:**

1. After the day the beer wholesalers license is granted, an agent, partner,	32A-11-103(2)(a)	R81-1-16	*f
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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is found to have been convicted</u> of any of the following offenses <u>prior</u> to the license being granted: <ul style="list-style-type: none"> <li>a. a felony;</li> <li>b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or</li> <li>c. a crime of moral turpitude.</li> <li>d. driving under the influence of alcohol, any drug, or the combination of the two – twice within 5 years.</li> </ul>	32A-11-103(8)		
2. After the day the beer wholesalers license is granted, an agent, partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is convicted of</u> : <ul style="list-style-type: none"> <li>a. a felony;</li> <li>b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;</li> <li>c. a crime of moral turpitude; or</li> <li>d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.</li> </ul>	32A-11-103(2)(b) 32A-11-103(8)	R81-1-16	*f
3. After the day the beer wholesalers license is granted, an agent, partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is arrested for</u> : <ul style="list-style-type: none"> <li>a. a felony;</li> <li>b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;</li> <li>c. a crime of moral turpitude; or</li> <li>d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.</li> </ul>	32A-11-103(3) 32A-11-103(8)	R81-1-16	*f
4. Attempted unauthorized sale, transfer, reassignment, etc. of license.	32A-11-102(3) 32A-11-106(7)	R81-11-2, -3, & -5	GR, *f
5. Licensee no longer possesses the qualifications required by this title.	32A-11-103(8)		*f

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Descriptions

Code Citation

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**F. OPERATIONS**

1. Falsification/tampering of records.	32A-11-106(6)(b) 32A-12-303 32A-12-304		GR, *b, *d,
2. Failure to maintain records as required.	32A-11-102(1)(k) 32A-11-106(6)(a) 32A-12-506		MOD
3. Refusing entry to authorized persons to audit, inspect, or review premises or records.	32A-11-102(1)(g) 32A-12-305 32A-13-109		GR, *b
4. Failure to maintain a statement of brands.	32A-11-102(1)(h), 32A-11-103(8)		MOD, *f
5. Wholesaling out-of-state beer without a certificate of approval.	32A-11-106(2)		GR
6. Wholesaling beer produced by an in-state brewer who is not licensed by DABC.	32A-11-106(1)		GR
7. Wholesaling to retailers outside the designated geographic area.	32A-11-106(4)		SER
8. Wholesaling to anyone other than a licensed retailer or permit holder.	32A-11-106(3)		GR
9. Unauthorized or inappropriate transfer of license ( <i>change of ownership</i> ).	32A-11-102(3) 32A-11-106(7)	R81-11-2, -3, & -5	GR, *f
10. Change of trade name without Commission approval		R81-11-4	MOD
11. Improper labeling	32A-11-106(8)		MOD
12. Failure to maintain a warehouse / inappropriately transferring beer from the warehouse.	32A-11-106(5)		GR

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13. Minor employed to handle beer.	32A-11-103(5)(a)(ii)		SER
14. Giving away, or offering to give away, any alcohol products to any person except as authorized by law.	32A-12-606(1)		SER, *b
15. Bad checks tendered to the department	32A-1-113(5)	R81-1-3(6)	*e, *g

### G. SALES

1. Wholesaling out-of-state beer without a certificate of approval.	32A-11-106(2)		GR
2. Wholesaling beer produced by an in-state brewer who is not licensed by DABC.	32A-11-106(1)		GR
3. Wholesaling to retailers outside the designated geographic area.	32A-11-106(4)		SER
4. Wholesaling to anyone other than a licensed retailer or permit holder.	32A-11-106(3)		GR

### H. STORAGE

1. Failure to maintain a warehouse / inappropriately transferring beer from the warehouse.	32A-11-106(5)(a)		GR
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### I. UTAH BEER INDUSTRY DISTRIBUTION ACT VIOLATIONS:

1. <u>Prohibited conduct by wholesaler:</u>	32A-11a-106(a)		GR
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\*c - Class "C" misdemeanor

\*e - See rule

\*g - See statute

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a. Coercing, or attempting to coerce, a retailer to engage in any illegal act.	32A-11a-106(b)		GR
b. Imposing a requirement on one retailer that is discriminatory when compared to requirements of other similar retailers.	32A-11a-106(c)		GR
c. Prohibiting a retailer from selling the product of another wholesaler.	32A-11a-106(d)		GR
d. Fixing the price at which a retailer may resell beer.	32A-11a-106(e)		GR
e. Requiring a retailer to accept delivery of beer or any other item that was not voluntarily ordered.	32A-11a-106(f)		GR
f. Restricting a retailer from participating in any organization operating for lawful purposes.	32A-11a-106(g)		GR
g. Requiring a retailer to participate in or contribute to any advertising fund or promotional activity.	32A-11a-106(h)		GR
h. Retaliating against a retailer who files a complaint against the wholesaler regarding an alleged violation by the wholesaler of a state or federal law or administrative rule.	32A-11a-106(i)		GR
i. Refusing to deliver beer products to a retailer who resides within the wholesaler's sales territory (in reasonable quantities and in reasonable time after order is made) unless refusal is warranted.			
2. Wholesaler illegally terminating a distributorship agreement.	32A-11a-103(1)		SER
3. Wholesaler illegally sells or transfers business assets or ownership.	32A-11a-107(1)(a)		GR
4. Wholesaler assigning or transferring the DABC license to another.	32A-11a-107(3)		GR

### J. TRADE PRACTICES

See violation grid - Industry Trade Practices.

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