

**LOCAL INDUSTRY REPRESENTATIVES / 32A-8 - PART 5 - VIOLATION GRID**

<b>A. <u>ADVERTISING</u></b>	<b><u>Descriptions</u></b>	<b><u>Code Citation</u></b>	<b><u>Rule Citation</u></b>	<b><u>Degree</u></b>
<p>1. Improper advertising:</p> <p>a. that contains any statement, design, device, or representation that is false or misleading;</p> <p>b. that contains any statement, design, device, or representation that is obscene or indecent;</p> <p>c. that refers to, portrays, or implies illegal conduct, illegal activity, abusive or violent relationships or situation, or anti-social behavior;</p> <p>d. that encourages over-consumption or intoxication, promotes the intoxicating effects of alcohol, or overtly promotes increased consumption;</p> <p>e. that offers any unlawful discounting practice such as “happy hour”, “two for the price of one”, or “all you can drink for \$.....”;</p> <p>f. that encourages or condones drunk driving;</p> <p>g. that depicts the act of drinking;</p> <p>h. that promotes or encourages the sale to or use of alcohol by minors;</p> <p>i. that is directed or appeal primarily to minors by:</p> <p>(1) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Clause;</p> <p>(2) employing any entertainment figure or group that appeals primarily to minors;</p> <p>(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</p>	<p>32A-8-505(2)(e) 32A-12-401(4)</p>	<p>R81-1-17(6)(b), (7)</p> <p>R81-1-17(6)(c), (7)</p> <p>R81-1-17(6)(d), (7)</p> <p>R81-1-17(6)(e),(7)</p> <p>R81-1-17(6)(f), (7)</p> <p>R81-1-17(6)(g), (7)</p> <p>R81-1-17(6)(h), (7)</p> <p>R81-1-17(6)(i), (7)</p> <p>R81-1-17(6)(j).(7)</p>	<p>MOD, *b</p>	

\*a - Class "A" misdemeanor  
\*b - Class "B" misdemeanor

\*c - Class "C" misdemeanor  
\*d - 2<sup>nd</sup> degree felony

\*e - See rule  
\*f - Licensee/permittee qualification

\*g - See statute  
\*h - 3<sup>rd</sup> degree felony

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advertising on the comic pages of magazines, newspapers, or 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-8-505(2)(e) 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-8-505(2)(e) 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-8-505(2)(e) 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-8-505(2)(e) 32A-12-401(4)	R81-1-17(6)(o), (7)	MOD, *b
2. Advertising scheme that offers alcoholic beverages to patrons or the general public without charge.	32A-8-106(1)(c) 32A-12-401(4), (5)	R81-1-17(6)(m), (7)	MOD, *b

**B. AUDIT:**

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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
1. Failure to comply with state and federal laws regarding payment of taxes.	32A-1-123		*f
2. Refusing entry of authorized representatives during normal business hours at the licensee's place of business.	32A-8-502(1)(e) 32A-12-305 32A-13-109		GR, *b
3. No longer a Utah resident or, if a corporation or partnership, no longer in good standing.	32A-8-102(3) 32A-8-503(7)		*f
4. Local industry representative licensee or employee of a local industry representative having ownership in or being employed by a licensed retailer.	32A-8-503(6) 32A-8-503(7) 32A-8-505(1)(b) 32A-8-505(7)		*f
5. Failure to maintain with the department a current list of manufacturers, etc. they represent, or failure to notify department within 14 days of any manufacturers, etc. either acquired or lost.	32A-8-505(3)(a) & (b)		MIN
6. Failure to maintain accounting and other required records for 3 years.	32A-8-505(4)		MOD
7. Forging or falsifying records.	32A-8-505(1)(b) 32A-8-505(5) 32A-12-303(2) 32A-12-304		GR, *b *d

**C. EMPLOYEE:**

1. Minor found to be an employee or agent of a licensee.	32A-8-505(7)(c)		SER
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D.	<u>LICENSE:</u>	<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
		1. A Utah resident representing a liquor, wine, or heavy beer producer without first obtaining a license.	32A-8-501(2)		GR
		2. DABC license not displayed.	32A-8-504(3)		MIN
		3. Change in ownership of business holding a local industry representative license without notifying the department.	32A-8-502(4) 32A-8-505(1)(b) & (8)		*f

E.	<u>LICENSEE:</u>				
		1. After the day the local industry representative license is granted a partner, 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: a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or c. a crime of moral turpitude. d. driving under the influence of alcohol, any drug, or the combination of the two – twice within 5 years.	32A-8-503(2)(a) 32A-8-503(7)		*f
		2. On or after the day the local industry representative license is granted, a partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is convicted of</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-8-503(2)(b) 32A-8-503(7)		*f

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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
3. On or after the day the local industry representative license is granted, a partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity <u>is arrested for</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-8-503(3) 32A-8-503(7)		*f
4. No longer a Utah resident or, if a corporation or partnership, no longer in good standing.	32A-8-102(3) 32A-8-503(7)		*f
5. Local industry representative licensee or employee of a local industry representative having ownership in or being employed by a licensed retailer.	32A-8-503(6) 32A-8-503(7) 32A-8-505(1)(b) 32A-8-505(7)		*f
6. Change in ownership of business holding a local industry representative license without notifying the department.	32A-8-502(4)		*f
7. Minor found to be a managing agent or holding 20% interest in business.	32A-8-503(5) 32A-8-503(7)		*f

**F. OPERATIONS**

1. A Utah resident representing a liquor, wine, or heavy beer producer without first obtaining a license.	32A-8-501(2)		GR
2. An employee or agent of a manufacturer, supplier, or importer who is not a local industry representative failing to register with DABC before representing their products to the department, package agencies, licensees, or permittees.	32A-8-501(5)(b)		MOD
3. Soliciting sale of wine or heavy beer inside the state to other than the department or military installation.	32A-8-505(1)(b) 32A-8-505(2)(b & d)		GR

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<b>Descriptions</b>	<b>Code Citation</b>	<b>Rule Citation</b>	<b>Degree</b>
4. Unlawfully shipping or transporting liquor, wine, or heavy beer into Utah from out of state.	32A-8-505(1)(b) 32A-8-505(2)(c) 32A-12-201(1) 32A-12-201(5 & 6)	R81-12	GR *h *b
5. Providing product samples to persons other than the Department.	32A-8-505(1)(b) 32A-8-505(2)(g) 32A-12-606(1)		GR, *b
6. Failure to notify the Department of any changes of client accounts within 14 days.	32A-8-505(1)(b) 32A-8-505(3)		MOD
7. Failure to maintain records as required by the Department for 3 years.	32A-8-505(1)(b) 32A-8-505(4)		MOD
8. Forging or falsifying records.	32A-8-505(1)(b) 32A-8-505(5) 32A-12-303(2), -304		GR, *b
9. Removing samples from the Department's premises.	32A-8-505(1)(b) 32A-8-505(6)(i)		GR
10. Soliciting, requesting, commanding, encouraging, or intentionally aiding another to engage in a violation of the law.	32A-8-505(1)(b)(ii)(B)		GR
11. Refusing entry of authorized representatives during normal business hours at the licensee's place of business.	32A-8-502(1)(e) 32A-12-305 32A-13-109		GR, *b
12. Require (directly or indirectly) that the department or a retailer purchase any alcoholic products from the industry member to the exclusion of those offered by other persons.	32A-12-602		SER, *b
13. Commercial Bribery	32A-12-604		GR, *b
14. Tied-House violations.	32A-12-603		SER, *b
15. Sponsoring or underwriting an event that (1) overtly promotes the consumption of alcoholic products, (2) offers free alcoholic products to the general public, or (3) takes place at a school, college, or university.	32A-12-606(4)		SER, *b
16. Giving away, or offering to give away, any alcohol products to any person except as authorized by law.	32A-12-606(1)		SER, *b
17. Paying, giving, or delivering to any person any thing of value, including	32A-12-606(3)		GR, *b

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rebates, refunds, or prizes based upon the purchase, display, use, sale, or consumption of alcoholic beverages.			
18. Bad checks tendered to department	32A-1-113(5)	R81-1-3(6)	*e, *g

**G. OTHER**

1. Unlawful importations.	32A-12-201(1), (2), & (7), =-214		GR, *h
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**H. TRADE PRACTICES**

See violation grid - Industry Trade Practices.

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