

## Proposed Rule Changes

### **R82-1-104. Advertising.**

(1) Authority. This rule is made pursuant to ~~subsection 32B-1-206(4)~~ Subsection 32B-1-206, which authorizes the advertising of alcoholic product in this state under guidelines established by the Commission except to the extent prohibited by Title 32B, Alcoholic Beverage Control Act.

(2) Definitions.

(a)(i) For purposes of this rule, "advertisement" or "advertising" includes any written or verbal statement, illustration, or depiction which is calculated to induce alcoholic beverage sales, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other public display, public transit card, other periodical literature, publication or in a radio or television broadcast, or in any other media.

(ii) "Advertisement" or "advertising" does not mean:

(A) labels on products; or

(B) any editorial or other reading material in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any alcoholic beverage industry member or retailer, and which is not written by or at the direction of the industry member or retailer.

(b) For purposes of this rule, "minor" ~~or "minors" shall mean persons~~ means a person under the age of 21 years.

(3) Application.

(a) This rule governs the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. This rule incorporates by reference the Federal Alcohol Administration Act, 27 U.S.C. 205(f), ~~and Subchapter A, Parts 4, 5, 6 and 7 of the regulations of the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury in~~ and 27 C.F.R. Parts 4, 5, 6, and 7 (1993 Edition). These provisions shall regulate the labeling and advertising of alcoholic beverages sold within this state, except where federal statutes and regulations are found to be contrary to or inconsistent with the provisions of the statutes and rules of this state.

(b) 27 C.F.R. ~~Sec. 7.47-50~~ provides that federal laws apply only to the extent that the laws of a state impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the state. This rule, therefore, adopts and incorporates by reference federal laws, previously referenced in ~~subparagraph (a), subpart (3)(a)~~ relating to the advertising of malt beverage products.

(4) Current statutes and rules restricting the advertising, display, or display of price lists of liquor products by the Department, state stores, or Ttype 1, 2 or 3 package agencies, as described in R82-2-301, are applicable.

(5) All advertising of liquor and beer by manufacturers, suppliers, importers, local industry representatives, wholesalers, permittees, and licensed retailers of such products, and Ttype 4 and 5 package agencies, ~~as defined-described~~ in R82-2-301, shall comply with the advertising requirements listed in subpart (6) of this rule.

(6) Advertising Requirements. Any advertising or advertisement authorized by this rule:

(a) may not violate any federal laws referenced in subpart (3) of this rule;

(b) may not contain any statement, design, device, or representation that is false or misleading;

(c) may not contain any statement, design, device, or representation that is obscene or indecent;

(d) may not refer to, portray or imply illegal conduct, illegal activity, abusive or violent relationships or situations, or anti-social behavior, except in the context of public service advertisements or announcements to educate and inform people of the dangers, hazards and risks associated with irresponsible drinking or drinking by persons under the age of 21 years;

(e) may not encourage over-consumption or intoxication, promote the intoxicating effects of alcohol consumption, or overtly promote increased consumption of alcoholic products;

## Proposed Rule Changes

- (f) may not advertise any unlawful discounting practice such as "happy hour", "two drinks for the price of one", "free alcohol", or "all you can drink for \$...".
  - (g) may not encourage or condone drunk driving;
  - (h) may not depict the act of drinking;
  - (i) may not promote or encourage the sale to or use of alcohol by minors;
  - (j) may not be directed or appeal primarily to minors by:
    - (i) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Claus that primarily appeals to minors;
    - (ii) employing any entertainment figure or group that appeals primarily to minors;
    - (iii) 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 advertising on the comic pages of magazines, newspapers, or other publications;
    - (iv) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other media, or sponsoring any school, college or university activity;
    - (v) using models or actors in the advertising that are or reasonably appear to be minors;
    - (vi) advertising at an event where most of the audience is reasonably expected to be minors; or
    - (vii) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use primarily by minors;
  - (k) may not portray 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;
  - (l) may not contain claims or representations that individuals can obtain social, professional, educational, athletic, or financial success or status as a result of alcoholic beverage consumption, or claim or represent that individuals can solve social, personal, or physical problems as a result of such consumption;
  - (m) may not offer alcoholic beverages without charge;
  - (n) may not require the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program, or other activity; and
  - (o) may provide information regarding product availability and price, and factual information regarding product qualities, but may not imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.
- (7) Violations. A violation of this rule may result in:
- (a) any administrative penalties authorized by ~~section~~ Section 32B-3-205; ~~or and may result in~~
  - (b) the imposition of the criminal penalty of a class B misdemeanor pursuant to ~~section~~ Section 32B-4-304.

## Proposed Rule Changes

### **R82-1-105. Label Approvals.**

(1) Authority. This rule is made pursuant to ~~sections 32B-1-601 through 32B-1-608~~ Section 32B-1-607, which ~~give-gives~~ the Commission the authority to adopt rules necessary to ~~fully~~ implement ~~certain aspects of~~ the Malted ~~Beverages Beverage~~ Act.;

(2) Purpose.

(a) Pursuant to ~~section~~ Section 32B-1-604, a manufacturer may not distribute or sell in this state any malted beverage, including a beer, heavy beer, ~~or~~ flavored malt beverage, unless the label and packaging of the beverage has been first approved by the Department.

(b) The requirements and procedures for applying for label and packaging approval are set forth in ~~sections~~ Sections 32B-1-604 through 32B-1-606.

(c) This rule:

(i) provides supplemental procedures for applying for and processing label and package approvals;

(ii) defines the meaning of certain terms in the Malted Beverages Act; and

(iii) establishes the format of certain words and phrases required on the containers and packaging of certain malted beverages as required by ~~section~~ Section 32B-1-606.

(3) Definitions.

(a) "Revision" means any change to packaging that significantly modifies the notice that the product is an alcoholic beverage.

~~(4)(3)~~ Application of Rule.

(a)(i) Except as provided in subpart (4)(a)(iii), a complete set of original labels for each size of container must accompany each application for label and packaging approval, including-

~~(i) This includes~~ all band, strip, front and back labels appearing on any individual container.

(ii) Original containers will not be accepted.

(iii) If original labels cannot be obtained, the following will be accepted:

(A) color reproductions that are exact size; or

(B) a copy of the federal certificate of label approval (COLA) from the Department of Treasury, Tax and Trade Bureau Form TTB F5100.31 with the exact size label if printed in color.

(b)(ii) Except as provided in subpart (4)(b)(ii), an application for approval is required for any revision of a previously approved label.

~~(c) A "revision" includes any changes to packaging that significantly modifies the notice that the product is an alcoholic beverage.~~

~~(d) An application for approval is not required for any changes-~~ (ii) An application for approval is required for a revision to packaging that relates to subject matter other than the required notice that the product is an alcoholic beverage, such as temporary seasonal or promotional themes.

~~(e)(c)(i)~~ Pursuant to ~~section~~ Section 32B-1-606, a malted beverage that is packaged in a manner that is similar to a label or package used for a nonalcoholic beverage must bear a prominently displayed label or a firmly affixed sticker on the container that includes the statement "alcoholic beverage" or "contains alcohol".

(ii) Any packaging of a flavored malt beverage must also prominently include, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging the statement "alcoholic beverage" or "contains alcohol".

(iii) The words in the ~~statement~~ statements described in subparts (4)(c)(i) and (ii) must appear:

(A)(i) in capital letters and bold type;

(B)(ii) in a solid contrasting background;

(C)(iii) on the front of the container and packaging;

(D)(iv) in a format that is readily legible; and

(E)(v) separate and apart from any descriptive or explanatory information.

~~(f)(d)(i)~~ Pursuant to ~~section~~ Section 32B-1-606, the label on a flavored malt beverage container shall state the alcohol content as a percentage of alcohol by volume or by weight.

(ii) The statement described in subpart (4)(d)(i) must appear:

(A)(i) in capital letters and bold type;

## **Proposed Rule Changes**

- ~~(B)(ii)~~ in a solid contrasting background;
- ~~(C)(ii)~~ in a format that is readily legible; and
- ~~(D)(iv)~~ separate and apart from any descriptive or explanatory information.

## Proposed Rule Changes

### **R82-2-107. Criminal History Background Checks.**

(1) Authority. This rule is made pursuant to:

(a) the Commission's powers and duties under ~~section~~ Section 32B-2-202 to set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking ~~permits, licenses, and package agencies a license, permit, or package agency~~;

(b) Sections 32B-1-301 through 32B-1-307 that prohibit certain persons who have been convicted of certain criminal offenses, including a crime involving moral turpitude, from being employed by the Department or from holding or being employed by the holder of an alcoholic beverage license, permit, or package agency;

(c) Sections 32B-1-301 through 32B-1-307 that allow for the Department to require criminal history background check reports on certain individuals; and

(d) ~~Section~~ Section 32B-1-102, which authorizes the Commission to define "crime involving moral turpitude."~~terms.~~

(2)(a) As used in this rule, a "crime involving moral turpitude" ~~means a crime~~ means a crime that:

(i) a crime that involves actions done knowingly contrary to justice, honesty, or good morals. ~~It is also described as:~~

(ii) a crime that is "malum in se" as opposed to "malum prohibitum"—actions that are immoral in themselves is immoral in itself regardless of whether the crime is being punishable by law; and as opposed to actions that are wrong only since they are prohibited by statute. A crime of moral turpitude ordinarily involves an element of falsification or fraud or of harm or injury directed to another person or another person's property.

(b) For purposes of this rule, crimes of moral turpitude may include crimes "Crime of moral turpitude" includes a crime involving controlled substances, illegal drugs, ~~and~~ narcotics.

(3) Purpose. This rule:

(a) establishes the circumstances under which a person identified in the statutory sections enumerated in ~~Subparagraph-subpart~~ (1)(b), must submit to a background check to show the person meets the qualifications of those statutory sections as a condition of employment with the Department, or as a condition of the Commission granting a license, permit, or package agency to an applicant for a license, permit, or package agency; and

(b) establishes the procedures for the filing and processing of criminal history background checks.

(4) ~~Application of Rule.~~

(a)(i) Except to the extent provided in ~~Subparagraphs (3)(a)(ii),(iii), and (iv)~~ subparts (3)(a)(ii) through (iv), a person identified in ~~Subparagraph-subpart~~ (1)(b) shall consent to a criminal background check by Utah Bureau of Criminal Identification, Department of Public Safety ("B.C.I.") and the Federal Bureau of Investigation ("F.B.I").

(ii) A person identified in ~~Subparagraph-subpart~~ (1)(b) who submitted a criminal background check on or after July 1, 2015, ~~shall not be~~ is not required to submit to a background check if the Department can confirm that the individual has maintained a regulatory or employment relationship as outlined in the Department's privacy risk mitigation strategy required by ~~subsection~~ Subsection 32B-1-307(4)(b).

(iii) An applicant for an event permit under Title 32B, Chapter 9, Event Permit Act, is not ~~shall not be~~ required to submit to a background check if the applicant attests that the persons identified in ~~Subparagraph-subpart~~ (1)(b) have not been convicted of any disqualifying criminal offense.

(iv) An applicant for employment with benefits with the Department ~~shall be~~ is required to submit to a background check if the Department has made the decision to offer the applicant employment with the Department.

(b) An application that requires background checks(s) may be included on a Commission meeting agenda, and may be considered by the Commission for issuance of a license, permit, or package agency if:

(i) the applicant has completed all requirements to apply for the license, permit, or package agency other than the Department receiving the required criminal history background report(s);

## Proposed Rule Changes

- (ii) the applicant attests in writing that ~~the applicant he or she~~ is not aware of any criminal conviction of any person identified in ~~subpart-Subparagraph~~ (1)(b) that would disqualify the applicant from applying for and holding the license, permit, or package agency;
- (iii) the applicant has submitted to a background check in a form acceptable to the Department; and
- (iv) the applicant stipulates in writing that if a criminal history background report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the Department.
- (c) The Commission may issue a license, permit, or package agency to an applicant that has met the requirements of ~~Subparagraph (3)~~subpart (4)(b), and the license, permit, or package agency shall be valid during the period the B.C.I. and F.B.I. is processing the criminal history report(s).
- (d) Upon the Department's receipt of the criminal history background report(s):
  - (i) if there is no disqualifying criminal history, the license, permit, or package agency shall continue for the balance the license or permit period, or the package agency contract period; or
  - (ii) if there is a disqualifying criminal history, Department staff shall:
    - (A) inform the licensee, permittee, or package agency and ask them to either surrender the license or remove the individual with the disqualifying criminal history from their position; and
    - (B) if the licensee, permittee, or package agency does not comply with subpart (4)(d)(ii)(A) ~~of this rule~~, issue an order to show cause and the Commission may enter an order accepting a surrender or an order revoking the license, permit, or package agency, depending on the circumstances.
- (e) In the case of a license or permit, if the statutory deadline for renewing the license or permit occurs before receipt of criminal history background report(s), the licensee or permittee may file for renewal of the license or permit subject to meeting all of the requirements in ~~Subparagraphs (3)(b) through (e)~~ this subpart (4).
- (f) An applicant for employment with benefits with the Department that requires a background check may be conditionally hired by the Department before receipt of the report if:
  - (i) the applicant attests in writing that ~~he or she~~ the applicant is not aware of any criminal conviction that would disqualify the applicant from employment with the Department;
  - (ii) the applicant has submitted to a background check in a form acceptable to the Department; and
  - (iii) the applicant stipulates in writing that if a criminal history background report shows a criminal conviction that would disqualify the applicant from employment with the Department, the applicant shall terminate ~~his or her~~ the applicant's employment with the Department.
- (5) Failure to comply with this rule or statutory requirements governing background check information is a basis for the Department to issue an Order to Show Cause.

## Proposed Rule Changes

### **R82-2-108. Duties of Commission Subcommittees.**

(1) Authority. This rule is made pursuant to ~~section~~ Section 32B-2-201.5 and shall govern the duties of the two Commission subcommittees, Compliance Licensing and Enforcement Subcommittee and the Operations and Procurement Subcommittee.

(2)(a) The Compliance Licensing and Enforcement Subcommittee will review and discuss items related to compliance, licensing, and enforcement and make recommendations to the full Commission on those items.

~~(b)(3)~~ The Operations and Procurement Subcommittee will review and discuss items related to operations and procurement and make recommendations to the full Commission on those items.

(3) Subpart (2) does not prohibit:

(a) the Compliance Licensing and Enforcement Subcommittee from reviewing, discussing, or making recommendations to the full Commission on items related to operations or procurement; or

(b) the Operations and Procurement Subcommittee from reviewing, discussing, or making recommendations on items related to compliance, licensing, or enforcement.

(4) If a quorum of the full Commission is present, the subcommittee may act on all agenda action items.

(5) A subcommittee quorum is all four standing members.

## Proposed Rule Changes

### **R82-2-202.1. Late License Renewals.**

- (1) Authority. This rule is ~~made-adopted~~ pursuant to ~~Section~~ Section 32B-2-202, which authorizes the Commission to make rules permitting and establishing the parameters of late license renewals.
- (2) Definitions. For purposes of this rule, "late renewal" means the Department's receipt, after the date of the statutory renewal deadline related to the license at issue, of the requisite documents and payment to renew a license.
- (3) Application:
  - (a) The Department may not accept a late renewal ~~application~~ for a license ~~received at the Department's Administrative Office by 5 p.m. after~~ the 10th day of the month that follows the statutory renewal deadline for that license type. If the 10th of the month falls on a Saturday, Sunday, or state or federal holiday, the Department shall consider a completed renewal application that is received ~~by 5 p.m.~~ on the next business day following the Saturday, Sunday, weekend or holiday.
  - (b) ~~Licensees who fail~~ A licensee who fails to meet the deadline established in this rule must apply for a new license.
  - (c) The licensee seeking late renewal shall submit to the Department:
    - (i) ~~e~~Each document required for renewal for the specific license type;
    - (ii) ~~T~~The statutory renewal fee for that license; and
    - (iii) ~~a~~A late fee either prescribed in ~~Section~~ Section 32B-2-202 or adopted in accordance with ~~Section~~ Section 63J-1-504.



## Proposed Rule Changes

### **R82-2-307. Type 5 Package Agencies.**

(1) ~~Authority.~~ This rule is made pursuant to:

~~(a) Section section~~ 32B-2-202, which authorizes the Commission to make rules governing package agencies; ~~and~~

~~(b), as well as sections Sections~~ 32B-2-504, 32B-2-605, and 32B-5-303.

(2) Purpose. A Type 5 package agency is for the limited purpose of allowing a winery, distillery, or brewery to sell at its manufacturing location the packaged liquor product it actually produces to the general public for off-premise consumption. This rule establishes guidelines and procedures for Type 5 package agencies.

~~(3) Authority.~~

(4) ~~Application of Rule.~~

(a) The package agency must be located at a manufacturing facility that has been granted a manufacturing license by the Commission. For purpose of this rule, a manufacturing facility includes the parcel of land and, where applicable, building(s) leased or owned by the manufacturing licensee immediately surrounding the manufacturing premise.

(b) The package agency may only sell products produced by the manufacturing licensee and may not carry the products of other alcoholic beverage manufacturers. For the purpose of this rule, products produced by the manufacturing licensee include products that would be assessed tax for sale as determined by 27 C.F.R. Parts 19, 24, and 25.

(c)(i) The product produced by the manufacturing licensee and sold in the Type 5 package agency need not be shipped from the winery, distillery, or brewery to the Department and then back to the package agency.

(ii) The bottles for sale at a Type 5 package agency may be moved directly from the manufacturer's storage area to the package agency, provided that proper record-keeping is maintained in a form and manner as required by the Department.

(d) Records required by the Department shall be kept current and available to the Department for auditing purposes for at least three years.

(e) The package agency shall submit to the Department a completed monthly sales report which specifies the variety and number of bottles sold from the package agency in a form and manner as required in the package agency contract.

~~(f)(4)~~ Direct deliveries to licensees are prohibited. Products must be purchased and picked up by the licensees or their staff at the Type 5 package agency. Sales to the manufacturer's retail licenses may be transported from the manufacturer's storage area directly to the retail licensed premise provided that a record is maintained showing a sale from the Type 5 package agency to the retail licensee at the retail price.

~~(g)(e)~~ The Type 5 package agency shall sell products at a price fixed by the Commission and follow the same laws, rules, policies, and procedures applicable to other package agencies as to the retail price of products.

~~(h)(f)~~ The days and hours of sale of the Type 5 package agency shall be in accordance with ~~section~~ Section 32B-2-605 and R82-2-306.

## Proposed Rule Changes

### **R82-2-309. Type 4 Package Agency Room Service - ~~Mini-Bottle~~/187 ml Wine Sales.**

(1)~~(a)~~ Authority. This rule is made pursuant to the Commission's powers and duties under Section 32B-2-202 to adopt and issue policies, rules, and procedures.

~~(2) and Purpose.~~

~~(a) Pursuant to Section~~section 32B-2-303, the Department may not purchase or stock ~~alcoholic beverages~~spirituous liquor in containers smaller than 200 milliliters, except as ~~otherwise allowed by the Commission~~described in Section 32B-2-303.

~~(b) Subject to subpart (2)(a) and the conditions described in subpart (3), the~~The Commission ~~hereby~~ allows the limited use of ~~50 milliliter "mini-bottles" of distilled spirits and~~ 187 milliliter bottles of wine as one form of room service sales by Type 4 package agencies located in hotels and resorts.

(c) The conditions outlined in this section are imposed to ensure that ~~the~~these smaller bottle sales are limited to patrons of sleeping rooms and are not offered to the general public.

~~(2) Application of Rule.~~

(a) The Department will not maintain a regular inventory of ~~distilled spirits and~~ wine in the smaller bottle sizes, but will accept special orders for these products from a Type 4 package agency. Special orders may be placed with the Department's purchasing division, any state store, or any Type 2 or 3 package agency.

(b) The Type 4 package agency must order in full case lots and all sales are final.

(c) If the hotel or resort has a Type 1 package agency with Type 4 privileges, the smaller bottle sized products must be stored in a secure area separate from the Type 1 package agency inventory.

(d) Sale and use of ~~wine~~alcohol in the smaller bottle sizes is restricted to providing one form of room service to guests in sleeping rooms in the hotel or resort, and may not be used for other purposes, or be sold to the general public.

(e) Failure of the Type 4 package agency to strictly adhere to the provisions of this rule is grounds for the Department to terminate its contract with the Type 4 package agency.

## Proposed Rule Changes

### **R82-3-107. Responsible Alcohol Service Plan.**

(1) Authority. This rule is ~~made~~ pursuant to the Commission's powers and duties under ~~sections Sections 32B-1-10332B-1-102, and 32B-2-202, 32B-5-201 and 202~~ to act as a general policymaking body on the subject of alcoholic beverage control, ~~;~~ set policy by written rules that establish criteria and procedures for suspending or revoking licenses, ~~;~~ and prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored.

(2) Purpose. This rule requires a licensee to provide a Responsible Alcohol Service Plan ("~~RASP~~") with ~~the licensee's their~~ initial application, upon renewal if the ~~Responsible Alcohol Service Plan RASP~~ has had a substantial change, or if the licensee has been found by the Commission to have violated any provision of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21.

(3) Definitions.

(a) "Intoxication" and "intoxicated" ~~are as defined in~~ mean the same as those terms are defined in section Section 32B-1-102(48).

(b) "Licensed ~~b~~Business" ~~means~~ a person or business entity licensed by the Commission to sell, serve, and store alcoholic beverages for consumption on the premises of the business.

(c) "Manager" means a person chosen or appointed to manage, direct, supervise, or administer the operations at a licensed business, regardless of the person's title.

(d) "Responsible Alcohol Service Plan" or "Plan" means a written set of policies and procedures of a licensed business that outline measures that will be taken by the business to prevent employees of the licensed business from:

(i) over-serving alcoholic beverages to customers;

(ii) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(iii) serving alcoholic beverages to persons under the age of 21.

(e) "Server" means an employee who actually makes available, serves to, or provides an alcoholic beverage to a customer for consumption on the business premises.

(f) "Supervisor" means an employee who, under the direction of a manager or owner, directs or has the responsibility to direct, transfer, or assign duties to employees who actually provide alcoholic beverages to customers on the premises of the business.

(4) Application ~~of Rule~~.

(a)(i) The Commission may direct that a licensed business that has been found by the Commission to have violated any provision of the Title 32B, Alcoholic Beverage Control Act, relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21, submit to the Department a Responsible Alcohol Service Plan.

(ii) The licensee thereafter shall, at a minimum, maintain a ~~Responsible Alcohol Service Plan RASP~~ as a condition of continued licensing and relicensing by the Commission.

(b) Any ~~Responsible Alcohol Service Plan RASP~~ at a minimum shall:

(i) outline the policies and procedures of the licensed business to:

(A) prevent over-service of alcohol;

(B) prevent service of alcohol to persons who are intoxicated;

(C) prevent service of alcohol to persons under the age of 21;

(D) provide alternate transportation options for problem customers; and

(E) deal with hostile customers;

(ii) require that all managers, supervisors, servers, security personnel, and others who are involved in the sale, service or furnishing of alcohol, agree to follow the policies and procedures of the Plan;

(iii) require adherence to the Plan as a condition of employment;

(iv) require a commitment by management to monitor employee compliance with the Plan;

(v) require periodic training sessions on the house policies and procedures in the Plan, and on the techniques of responsible service of alcohol taught in the Alcohol Training and Education Seminar ~~required by described in Section 26B-5-20562A-15-401,~~ such as:

(A) identifying legal forms of ID, checking ID, and recognizing fake ID;

## **Proposed Rule Changes**

- (B) identifying persons under the age of 21;
- (C) discussing the legal definition of intoxication;
- (D) identifying behavioral signs of intoxication;
- (E) discussing techniques for monitoring and controlling consumption such as:
  - (1) drink counting;
  - (2) slowing down alcohol service;
  - (3) offering food or nonalcoholic beverages; and
  - (4) cutting off alcohol service;
- (F) discussing third party or "dram shop" liability for the unlawful service of alcohol to intoxicated persons and persons under the age of 21 as outlined in Title 32B, Chapter 15, [Alcoholic Product Liability Act](#); and
- (G) discussing the potential criminal, civil and administrative penalties for over-serving alcohol, selling, serving, or otherwise furnishing alcohol to persons who are intoxicated, or to persons who are under the age of 21.
  - (c) The licensed business may choose to include in the Plan incentives for those employees who deserve special recognition for their responsible service of alcohol.
  - (d) The Plan shall be available on the premises of the licensed business so as to be accessible to all employees of the licensed business who are involved in the sale, service, or furnishing of alcohol.
  - (e) The Plan shall be available on the premises of the licensed business for inspection by representatives of the Commission, the Department and by law enforcement officers.
  - (f) Any licensed business that fails to submit to the Department a Plan as directed by the Commission pursuant to subpart (4)(a) of this rule, or to have a Plan available for inspection as required by subpart (4)(e), shall be subject to the immediate suspension or revocation of its current license, and shall not be granted a renewal of its license by the Commission.

## Proposed Rule Changes

### **R82-6-601. ~~On-Premise Banquet~~ On-Premise Banquet License Room Service - ~~Mini-Bottle~~ 187 ml Wine Sales.**

(1) Authority. This rule is made pursuant to the Commission's powers and duties under Section 32B-2-202 to adopt and issue policies, rules, and procedures.

(2) Purpose.

(a) Pursuant to ~~section~~ Section 32B-2-303, the Department may not purchase or stock spirituous liquor in containers smaller than 200 milliliters, except as ~~otherwise allowed by the Commission described in Section 32B-2-303~~.

(b) Subject to subpart (2)(a) an the conditions described in subpart (3), the ~~The~~ Commission ~~hereby~~ allows the limited use of ~~50 milliliter "mini bottles" of distilled spirits and~~ 187 milliliter bottles of wine as one form of room service sales by on-premise banquet licensees located in hotels and resorts.

(c) ~~The following~~ conditions outlined in this section are imposed to ensure that ~~these the~~ smaller bottle sales are limited to registered guests of sleeping rooms and are not offered to the general public.

(3)~~(2)~~ ~~Application of Rule.~~

(a) The Department will not maintain a regular inventory of ~~distilled spirits and~~ wine in the smaller bottle sizes, but will accept special orders for these products from an on-premise banquet licensee. Special orders may be placed with the Department's purchasing division, any state store, or any Type 2 or 3 package agency.

(b) The on-premise banquet licensee must order in full case lots and all sales are final.

(c) Sale and use of ~~aleohol~~ wine in the smaller bottle sizes is restricted to providing one form of room service to guests in sleeping rooms in the hotel or resort, and may not be used for other banquet catering services, kept in a minibar, or be sold to the general public.

(d) Failure of the on-premise banquet licensee to strictly adhere to the provisions of this rule is grounds for the Department to take disciplinary action against the on-premise banquet licensee.

## Proposed Rule Changes

### **R82-9-202. Additional Consideration for Event Permits.**

(1) ~~(a)~~ In accordance with ~~Subsection 32B-9-303(2)~~, Section 32B-9-303, a single event permit is issued to entities in existence for a year or more conducting a convention, civic, or community enterprise.

~~(b)(a)~~ As part of ~~local consent~~ written consent of the local authority required by ~~Subsection 32B-9-201(1)(e)~~ Section 32B-9-201, the locality may provide a recommendation as to whether the entity is conducting a civic or community enterprise.

~~(c)(b)~~ The director may consider the recommendation of the local authority in determining whether the entity is conducting a civic or community enterprise.

~~(d)(e)~~ Notwithstanding ~~Subsection-subparts (1)(a) through (c)~~, an event permit may not be issued if, based on the totality of the circumstances, it is determined that the permit is being used to circumvent other applicable requirements of Title 32B, Chapter 9, Event Permit Act.

(2) In accordance with ~~Subsection 32B-9-202(2)(d)~~, Section 32B-9-202, in considering the nature of the event, if there is a violation of the applicant, the event, or the venue within the last 36 months, the director will consider the violation history in making a determination regarding whether to issue the permit or in determining additional controls as outlined in ~~subpart Section~~(3).

(3) ~~(a)~~ In accordance with ~~Subsection 32B-9-202(2)(d)~~, Section 32B-9-202, in considering the nature of the event, the director must determine that adequate and appropriate control measures will be in place to minimize the possibility of minors being sold or furnished alcohol or adults being over-served alcohol at the event.

~~(b)(a)~~ The director may not issue an event permit unless the applicant demonstrates the following control measures will be implemented at the event:

(i) the event will have at least one location where an individual must show proof of age prior to purchasing an alcoholic beverage;

(ii) each individual assigned to check proof of age will have completed the alcohol server training seminar outlined in ~~Section 62A-15-401~~ Section 26B-5-205 within the last three years prior to the date of the event;

(iii) one or more individuals who have completed the alcohol server training seminar outlined in ~~Section 62A-15-401~~ Section 26B-5-205 within the last three years will be required to supervise each location where an alcoholic beverage is sold or dispensed;

(iv) the event will be secured and delineated by a physical structure such as by a fence, wall, or gate, and secured entryways and exits; and

(v) security will be provided by one or more individuals for every 50 individuals estimated to be in the consumption area at one time, which may be provided by a police officer, hired security guard, organization staff member, or security volunteer.

~~(c)(b)~~ In accordance with ~~Subsection 32B-9-202(2)(e)~~ Section 32B-9-202, the director may not issue an event permit unless the applicant demonstrates the following additional control measures will be implemented at an outdoor public event or a large-scale public event where minors are present:

(i) any alcoholic beverage shall be served in readily identifiable cups or containers distinct from those used for non-alcoholic beverages;

(ii) dispensing and consumption of alcoholic beverages shall be in a designated, confined, and restricted area where minors are not allowed without being accompanied by a parent or guardian, and where alcohol consumption is closely monitored;

(iii) a location where an individual must show proof of age prior to purchasing an alcoholic beverage shall be separate from an alcoholic beverage sales and dispensing location; and

(iv) an individual assigned to check proof of age at an event will either issue a hand stamp or non-transferable wristband to an individual authorized to purchase alcoholic beverages at the event.

~~(d)(e)~~ The director, after reviewing the facts and circumstances of a particular event, may modify any of the control measures outlined in ~~Subsection (a) and (b) subparts (3)(b) or (c)~~ to be more or less stringent as a condition of issuing an event permit provided that the director has first reasonably determined that such modification will not increase the likelihood of minors being sold or furnished alcohol or adults being over-served alcohol at the event.

## **Proposed Rule Changes**

(4) In accordance with Section 32B-9-204, failure of the event permittee to adhere to the control measures described in subparts (3)(b) and (c) at the event is grounds for the Department to take disciplinary action against the event permittee.