**State of Utah**

**Administrative Rule Analysis**

Revised May 2020

|  |
| --- |
| **Notice of Proposed Rule** |
| **TYPE OF RULE:**  New \_\_; Amendment \_X\_ ; Repeal \_\_\_; Repeal and Reenact \_\_\_ |
|  | **Title No. - Rule No. - Section No.** |
| **Utah Admin. Code Ref (R no.):** | **R82-5-101** | **Filing No. 53017** |

**Agency Information**

|  |  |
| --- | --- |
| **1. Department:** | Alcoholic Beverage Control |
| **Agency:** | Administration |
| **Street address:** | 1625 South 900 West |
| **City, state:** | SLC, Utah 84104-1630 |
| **Mailing address:** | PO Box 30408 |
| **City, state, zip:** | SLC, Utah 84130-0408 |
| **Contact person(s):** |
| **Name:** | **Phone:** | **Email:** |
| Vickie Ashby | 801-977-6801 | vickieashby@utah.gov |
| Angela Micklos | 801-977-6800 | afmicklos@utah.gov |
| Please address questions regarding information on this notice to the agency. |

**General Information**

|  |
| --- |
| **2. Rule or section catchline:** |
| R82-5-101. Definitions |
| **3. Purpose of the new rule or reason for the change** (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?)**:** |
| This rule amendment is necessary to remove the section that defines what a banquet contract must require. Statute Section 32B-6-605 doesn't grant specific rulemaking authority to make rules defining banquet contracts.  |
| **4. Summary of the new rule or change:** |
| This rule amendment is necessary to remove the section that defines what a banquet contract must require. Statute Section 32B-6-605 doesn't grant specific rulemaking authority to make rules defining banquet contracts.  |

**Fiscal Information**

|  |
| --- |
| **5. Aggregate anticipated cost or savings to:** |
| **A) State budget:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **B) Local governments:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **C) Small businesses** ("small business" means a business employing 1-49 persons)**:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons)**:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **F) Compliance costs for affected persons:** |
| None – This amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional costs. |
| **G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.) |
| **Regulatory Impact Table** |
| **Fiscal Cost** | **FY2021** | **FY2022** | **FY2023** |
| State Government | $0 | $0 | $0 |
| Local Governments | $0 | $0 | $0 |
| Small Businesses | $0 | $0 | $0 |
| Non-Small Businesses | $0 | $0 | $0 |
| Other Persons | $0 | $0 | $0 |
| **Total Fiscal Cost** | **$0** | **$0** | **$0** |
| **Fiscal Benefits** |  |  |  |
| State Government | $0 | $0 | $0 |
| Local Governments | $0 | $0 | $0 |
| Small Businesses | $0 | $0 | $0 |
| Non-Small Businesses | $0 | $0 | $0 |
| Other Persons | $0 | $0 | $0 |
| **Total Fiscal Benefits** | **$0** | **$0** | **$0** |
| **Net Fiscal Benefits** | **$0** | **$0** | **$0** |
| **H) Department head approval of regulatory impact analysis:** |
| The head of department of the Department of Alcoholic Beverage Control, Salvador Petilos, has reviewed and approved this fiscal analysis. |
| **6. A) Comments by the department head on the fiscal impact this rule may have on businesses:** |
| This rule amendment is necessary to remove the section that defines what a banquet contract must require so does not create additional cost or savings. |
| **B) Name and title of department head commenting on the fiscal impacts:** |
| Salvador Petilos, Executive Director. |

**Citation Information**

|  |
| --- |
| **7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required**)**:** |
| Section 32B-2-202 | Section 32B-1-102 | Section 32B-6-605 |

**Public Notice Information**

|  |
| --- |
| **9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.) |
| **A) Comments will be accepted until** (mm/dd/yyyy)**:** | 10/01/2020 |

|  |  |
| --- | --- |
| **10. This rule change MAY become effective on** (mm/dd/yyyy)**:** | 10/08/2020 |
| NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.  |

**Agency Authorization Information**

|  |
| --- |
| **To the agency**: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date. |
| **Agency head or designee, and title:** | Salvador Petilos, Executive Director | **Date** (mm/dd/yyyy)**:** | 08/14/2020 |

**R82. Alcoholic Beverage Control, Administration.**

**R82-5. General Retail License Provisions.**

**R82-5-101. Definitions.**

 (1) [~~Authority.~~ ]This rule is [~~made~~]adopted pursuant to [~~s~~]Sections 32B-1-102 and 32B-2-202.

 (2) [~~Definitions.~~ ] As used in this rule:

 (a) "Dispensing System" means a system or device which dispenses liquor in controlled quantities not exceeding 1.5 ounces and has a meter which counts the number of pours served.

 (b) "Resort facility" is a publicly or privately owned or operated commercial recreational facility or area:

 (i) that is designed primarily to attract and accommodate people to a recreational or sporting environment;

 (ii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;

 (iii) that has adequate kitchen or culinary facilities on the premises to provide complete meals; and

 (iv) that has at least 1500 square feet of function space consisting of meeting [~~and/~~]or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the Commission shall have the authority to waive the minimum function space size requirements.

 (c) "Sports center" is a publicly or privately owned or operated facility:

 (i) that is designed primarily to attract people to and accommodate people at sporting events;

 (ii) that has a fixed seating capacity for more than 2,000 persons;

 (iii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;

 (iv) that has adequate kitchen or culinary facilities on the premises of the sports center to provide complete meals; and

 (v) that has at least 2500 square feet of function space consisting of meeting [~~and/~~]or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the Commission shall have the authority to waive the minimum function space size requirements.

 (d) "Convention center" is a publicly or privately owned or operated facility:

 (i) the primary business or function of which is to host conventions, conferences, and food and beverage functions under a banquet contract;

 (ii) that has adequate kitchen or culinary facilities on the premises of the convention center to provide complete meals; and

 (iii) that is in total at least 30,000 square feet.

[ ~~(3)(a) A "banquet contract" means an agreement between an on-premise banquet licensee and a third party host of a banquet to provide alcoholic beverage services at a meal, reception, or other private banquet function at a defined location on a specific date and time for a pre-arranged, guaranteed number of attendees at a negotiated price.~~

 ~~(b) Each "banquet contract" shall:~~

 ~~(i) clearly define the location of the private banquet function;~~

 ~~(ii) require that the private banquet function be separate from other areas of the facility that are open to the general public; and~~

 ~~(iii) require signage at or near the entrance to the private banquet function to indicate that the location has been reserved for a specific group.~~]

**KEY: alcoholic beverages**

**Date of Enactment or Last Substantive Amendment: [~~February 25,~~] 2020**

**Authorizing, and Implemented or Interpreted Law: 32B-2-202**

!--dar--