**State of Utah**

**Administrative Rule Analysis**

Revised May 2020

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| **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.):** | **R82-5-102** | **Filing No. 53018** |

**Agency Information**

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| **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**

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| **2. Rule or section catchline:** |
| R82-5-102. Licensing, Ownership, and Transfer of License |
| **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 correct the "seller" and "buyer" references in Subsection R82-5-102(5) so that they align with statutory requirements in Subsection 32B-5-310(3). |
| **4. Summary of the new rule or change:** |
| This rule amendment is necessary to correct the "seller" and "buyer" references in Subsection R82-5-102(5) so that they align with statutory requirements in Subsection 32B-5-310(3). |

**Fiscal Information**

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| **5. Aggregate anticipated cost or savings to:** |
| **A) State budget:** |
| None – This rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment does not create additional cost or savings. |
| **B) Local governments:** |
| None – This rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment does not create additional cost or savings. |
| **C) Small businesses** ("small business" means a business employing 1-49 persons)**:** |
| None – This rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment does not create additional cost or savings. |
| **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons)**:** |
| None – This rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment 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 rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment does not create additional cost or savings. |
| **F) Compliance costs for affected persons:** |
| None – This rule amendment is necessary to correct the “seller” and “buyer” references so that they align with statutory requirements. This amendment does not create additional cost or savings. |
| **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 correct the “seller” and “buyer” references so that they align with statutory. There will be no anticipated cost or savings to businesses because of this rule amendment. |
| **B) Name and title of department head commenting on the fiscal impacts:** |
| Salvador Petilos, Executive Director. |

**Citation Information**

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| **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-5-310 |  |

**Public Notice Information**

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| **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 |

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| **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**

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| **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.**

**R82-5-102. Licensing, Ownership, and Transfer of License.**

 (1) This rule is adopted pursuant to [~~s~~]Section 32B-5-310, which authorizes the Department to make rules governing requirements for interim alcoholic beverage management agreements.

 (2) Licenses are issued to persons. A licensee must communicate any contemplated action or transaction that may alter an organizational structure or ownership interest of the person to whom a license is issued to the Department so staff may ensure there is no violation of [~~s~~]Section 32B-5-310.

 (3) An interim alcoholic beverage management agreement is required if a buyer will be performing the day-to-day operations of the business before the Commission approves the transfer of the license from seller to buyer.

 (4)(a) Before a retail licensee enters into an interim alcoholic beverage management agreement, it shall provide the proposed interim alcoholic beverage management agreement to the Department for its approval.

 (b) The Department shall create a checklist of information that an interim alcoholic beverage management agreement must contain.

 (c) The Department shall review a proposed interim alcoholic beverage management agreement and, no later than 15 business days after the day on which the agreement is received by the Department:

 (i) approve the interim alcoholic beverage management agreement if it contains all the necessary information; or

 (ii) return the proposed interim alcoholic beverage management agreement to the licensee, if the agreement is lacking in information or specificity, with guidance on how to remedy any errors or omissions.

 (5) Once an interim alcoholic beverage management agreement [~~has been~~]is approved by the Department, the seller may allow the buyer to use their license to purchase alcoholic product from the Department, but [~~all~~] revenue from the sale of alcohol during the transition period must be retained by the [~~buyer~~]seller, less the cost of reimbursing the [~~seller~~]buyer for the cost of the alcoholic product paid to the Department.

 (6) The seller must maintain the required bond, insurance, and business license during the transition period, as these are statutory requirements to hold a license, but the buyer may agree to reimburse the seller for any necessary costs incurred to maintain the bond, insurance, and business license.

 (7) Nothing in this rule authorizes a licensee to close business without approval from the Department or Commission, as required by statute.

**KEY: alcoholic beverages**

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

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

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