**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.):** | **R82-6-602** | **Filing No. 53021** |

**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:** |
| R82-6-602. Reporting Requirement for Banquet Licensees |
| **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 is an existing rule that needed to be modified to include reporting and record-keeping provisions for the newly created privately sponsored event in House Bill (H.B.) 399 passed in the 2020 General Session. Additionally, this rule has been modified to streamline the reporting process to ensure licensee compliance. |
| **4. Summary of the new rule or change:** |
| This rule: (a) removes the requirement that banquet catering licensees submit a quarterly report of scheduled banquets; (b) requires electronic notice of all banquets at least 14 days in advance of the event; (c) requires licensees to provide immediate notice of canceled or modified banquets; (d) modifies the type of information required in the event notice; (e) specifies what records the banquet catering licensee must retain; and (f) adds security/control provisions for large events over 500 people. |

**Fiscal Information**

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| **5. Aggregate anticipated cost or savings to:** |
| **A) State budget:** |
| None – any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **B) Local governments:** |
| None – any anticipated cost or savings to local government are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **C) Small businesses** ("small business" means a business employing 1-49 persons)**:** |
| None – any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **D) Non-small businesses** ("non-small business" means a business employing 50 or more persons)**:** |
| None – any anticipated cost or savings are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **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***)**:** |
| Any anticipated cost or savings are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **F) Compliance costs for affected persons:** |
| There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 399. Costs and savings for administering this change were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **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:** |
| The fiscal impact for this rule was accounted for in H.B. 399 passed in the 2020 General Session, so there will be no anticipated cost or savings to businesses because of this rule. |
| **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-6-605 | Section 32B-2-202 |  |

**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.**

**R82-6. Specific Retail Provisions.**

**R82-6-602. On Premise Banquet -- Reporting Requirement for Banquet Licensees.**

 (1) [~~Authority. This~~]The authority for this rule is [~~pursuant to the Commission's powers and duties under section 32B-2-202 to act as a general policymaking body on the subject of alcoholic beverage control and to set policy by written rules that prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored, and pursuant to section~~ ] Subsections 32B-6-605(3)(a) and 32B-6-605(4)(a).

 (2) [~~Purpose.~~]This rule establishes:

 (a) the notice that an [~~implements the requirement of section 32B-6-605, which requires the Commission to provide by rule procedures for~~ ]on-premise banquet licensee[~~s~~] or sublicensee[~~s~~] must give to the Department in advance of a[~~to report~~] scheduled banquet event[~~s to the Department to allow random inspections of banquets by authorized representatives of~~] so that the Commission, the Department, or [~~by~~ ]law enforcement officers may conduct a random inspection of a banquet to monitor compliance with the alcoholic beverage control laws; and

 (b) the records to be maintained by an on-premise banquet licensee and sublicensee.

 (3) ~~[ Application of the Rule.~~

 ~~(a)~~] An on-premise banquet licensee and an on-premise banquet sublicense [~~licensed under Title 32B, Chapter 8 and Chapter 8b shall file with the Department at the beginning of each quarter a report containing advance notice of events that have been scheduled as of the reporting date for that quarter to be held under a banquet contract as defined in R82-5-101.~~]

[ ~~(b)(i) The quarterly reports are due on or before January 1, April 1, July 1, and October 1 of each year and may be hand-delivered, submitted by mail, or submitted electronically.~~

 ~~(ii) If the licensee adds an event for a quarter after the licensee has already turned in the report, as described i subpart (3)(b)(i) of this rule, the licensee shall promptly contact the licensee's compliance officer to supplement the report.~~]shall provide the Department advance notice of scheduled banquets in an electronic format at least fourteen days prior to the scheduled event or immediately upon booking events with less than fourteen days until the scheduled event. The electronic advance notice must include the following information for each event:

 (a) the name of the host;

 (b) the specific location;

 (c) the dates;

 (d) the beginning and ending times;

 (e) the number of attendees expected to attend;

 (f) the designation as either a private event or a privately sponsored event, including the specific type of event; and

 (g) for banquet events with an anticipated attendance of over 500 people, the control measures that will be implemented to prevent:

 (i) minors from obtaining alcohol;

 (ii) overconsumption of alcohol;

 (iii) the general public or an uninvited guest from entering a private event; and

 (iv) a person who has not paid an admission fee from entering a privately sponsored event.

 (4) The licensee or sublicensee shall provide electronic notice of banquet event cancellations or modifications at the time the event is canceled or modified.

 [~~(c)~~](5) [~~Each report shall include the name and specific location of each event and the name of the third-party host of the event.~~]

[ ~~(d)~~ ]The Department shall [~~make~~]provide access to documents listing scheduled banquet events upon request, [~~copies of the reports available~~ ]to a commissioner, authorized representative of the Department, and any law enforcement officer [~~upon request to be used~~ ]for use in a[~~the~~] purpose stated in [~~subpart~~]Subsection (2)[ ~~of this rule~~].

 (6)[~~(e)~~] The Department shall retain a copy of [~~each report until the end of each reporting quarter~~]any documents pertaining to scheduled banquet events for up to fourteen days after the conclusion of the banquet event.

 (7) The Department shall classify the documents containing the details of scheduled banquet events as protected under Section 63G-2-305 of the Government Records Management Act if, upon review, the Department determines that:

 (a)[~~(f)~~] [~~Because any report filed under this rule~~ ]the documents contain[~~s~~] commercial information, the disclosure of which could reasonably be expected to result in unfair competitive injury to the licensee or sublicensee submitting the information, and the licensee or sublicensee submitting the information has a greater interest in prohibiting access than the public in obtaining access to the [~~report:~~]information; and

 (b) the licensee or sublicensee claims[~~(i) any report filed shall be deemed to include a claim of~~] business confidentiality[~~, and a request that the report~~] and requests that the documents be classified as protected pursuant to [~~s~~]Sections 63G-2-305 and 63G-2-309[~~;~~].

[ ~~(ii) any report filed shall be classified by the Department as protected pursuant to section 63G-2-305; and~~]

 [~~iii~~](8) [~~any report filed shall be used by the~~]The Department and law enforcement may use the scheduled banquet event documents only for the purposes stated in this rule.

 (9) On-premise banquet licensees and sublicensees must maintain a record of the following:

 (a) the name and type of each event;

 (b) the date and time of each event;

 (c) the name of the third-party host of each event;

 (d) the contract between the licensee or sublicensee and the host of each event;

 (e) the percentage of ownership interest, if any, the host has in the banquet facility;

 (f) the total number of guests attending each event;

 (g) the total sales of spirituous liquor, wine, beer, heavy beer, and flavored malt beverages sold, served, or provided at each event;

 (h) the price charged to the guests for each type of alcoholic product served at each event;

 (i) the total sales of food served at each event;

 (j) the purchase receipts for spirituous liquor, wine, heavy beer, beer, and flavored malt beverages; and

 (k) the annual ratio of food sales to sales of spirituous liquor, wine, heavy beer, beer, and flavored malt beverages.

 (10)[~~(g)~~] Failure of an on-premise banquet licensee or sublicensee to timely file [~~a quarterly report~~]advance notice of scheduled banquet events or to retain the records as noted in this rule may result in disciplinary action pursuant to [~~s~~]Sections 32B-3-201 to 32B-3-207, and Section R82-3-102 and R82-3-103.

**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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