**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.):** | **R82-7-102** | **Filing No. 53023** |

**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:** |
| R82-7-102. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer 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?)**:** |
| After an internal review of this rule, Alcoholic Beverage Control discovered that as previously written, Rule R82-7 could be incorrectly interpreted such that the 10th of the month deadline only applied to master OP licensees and not all OP licensees. |
| **4. Summary of the new rule or change:** |
| This rule amendment clarifies that the 10th of the month application deadline applies to both off-premise beer retailer and master off-premise beer retailer; and reorganizes the rule for simplicity. |

**Fiscal Information**

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| **5. Aggregate anticipated cost or savings to:** | | | |
| **A) State budget:** | | | |
| None – This amendment clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It does not create additional cost or savings. | | | |
| **B) Local governments:** | | | |
| None – This amendment clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It does not create additional cost or savings. | | | |
| **C) Small businesses** ("small business" means a business employing 1-49 persons)**:** | | | |
| None – This amendment clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It 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 clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It 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 clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It does not create additional cost or savings. | | | |
| **F) Compliance costs for affected persons:** | | | |
| None – This amendment clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. It 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 amendment clarifies the monthly application deadline for off-premise beer retailer and master off-premise beer retailer licenses. 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-7-408 |  |

**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.**

**R82-7. Off-Premise.**

**R82-7-102. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer [~~State~~ ]License.**

(1) [~~Authority and General Purpose~~]. [~~This~~ ]The authority for this rule is [~~pursuant to s~~]Subsection 32B-2-202(1)(c) [~~which requires the Commission to set policy by written rules that establishes criteria and for issuing and denying licenses~~ ]and [s]Section 32B-7-408[~~, which authorizes the Commission to make rules establishing how a person may apply for a master off-premise beer retailer state license~~].

(2) The purpose of this rule is to establish:

(a) the criteria for issuing and denying licenses; and

(b) the process to apply for a master off-premise beer retailer state license.

(3) The application process is as follows:

([~~2~~]a) [~~N~~]no license application will be included on the agenda of a monthly Commission meeting for consideration for issuance of a license [~~until in accordance with subsection 32B-7-404(2)~~]unless:

(i)[~~(a)~~] [~~T~~]the applicant has submitted a complete application to the Department [~~in accordance with~~ ]that meets the requirements of [~~s~~]Sections 32B-7-402 or 32B-7-408; and

(ii)[~~(b)~~] the Department has completed an investigation and inspected the proposed licensed premises.

(b)[~~(c)~~] A [~~"~~]complete application[~~"~~] includes the Department's application form and [~~all~~] supplemental materials listed on the Department's application checklist.

(4)[~~(3)~~](a) [~~All~~]An application for an on-premise or master on-premise license that meets the requirements of [~~subpart (2)~~]Subsection (3)(a) [~~of this rule~~] must be filed with the Department no later than the 10th day of the month in order [~~for the application to be included~~ ]to be put on that month's Commission meeting agenda;

(b) [~~unless~~]If the 10th day of the month is a Saturday, Sunday, or state or federal holiday, [~~in which case all application requirements of subpart (2)(a)~~ ]the application must be filed on the next business day after the 10th day of the month.

(c)[~~(b)~~] An incomplete application will be returned to the applicant.

(d)[~~(c)~~] A complete[~~d~~] application filed after the deadline in [~~subpart~~] Subsection (4)[~~(3)~~](a) [~~of this rule~~] will not be considered by the Commission that month, but will be put[~~included~~] on the agenda of the Commission meeting for the following month.

(e)[~~(4)~~] [~~Subpart~~] Subsection (2)(a) [~~of this rule~~] does not preclude the Commission from considering an application for a conditional license under the terms and conditions of [~~s~~]Section 32B-7-406.

**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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