

R82. Alcoholic Beverage Control, Administration.

R82-1. General.

R82-1-101. Scope and Effective Date.

These rules are adopted pursuant to section 32B-2-202 and shall be interpreted so as to be consistent with the Alcoholic Beverage Control Act. These rules shall govern the Department and all licensees and permittees of the Commission.

R82-1-102. Definitions.

Definitions of terms in the Act are used in these rules, except where the context of the terms in these rules clearly indicates a different meaning.

(1) "Act" means the Alcoholic Beverage Control Act, Title 32B.

(2) "Commission" means the Utah Alcoholic Beverage Services Commission.

(3) "Controlled Group of Manufacturers Breweries" means a group of incorporated or non-incorporated alcohol manufacturers breweries that are related directly or indirectly through more than 50% common ownership or control by any person or persons. Additionally, an alcohol manufacturer brewery is considered to be part of a controlled group of manufacturers breweries if more than 50% of the alcohol manufacturing entity brewery is owned or controlled directly or indirectly either by, or in common with, another alcohol manufacturer brewery or breweries.

(4) "Department " or "DABS" means the Utah Department of Alcoholic Beverage Services.

(5) "Director" means the director of the Department of Alcoholic Beverage Services.

(6) "Dispensing System" means a dispensing 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.

(7) "Guest Room" means a space normally utilized by a natural person for occupancy, usually a traveler who lodges at an inn, hotel or resort.

(8) "Manager" means, depending on the context, a:

(a) a person chosen or appointed to manage, direct, or administer the affairs of another person, corporation, or company;

(b) an individual chosen or appointed to direct, supervise, or administer the operations at a licensed business; or

(c) an individual who supervises the furnishing of an alcoholic product to another, regardless of the exact employment title that the person holds.

(9) "Person" means the same as that term is defined in Section 68-3-12.5.

(10) "Point of Sale" means that portion of a package agency, restaurant, limited restaurant, beer-only restaurant, airport lounge, on-premise banquet premises, reception center, recreational amenity on-premise beer retailer, tavern, single event permitted area, temporary special event beer permitted area, or public service special use permitted area that has been designated by the Department as an alcoholic beverage selling area. It also means that portion of an establishment that sells beer for off-premises consumption where the beer is displayed or offered for sale.

(11) "Respondent" means a Department licensee, or permittee, or employee or agent of a licensee or permittee, or other entity against whom a letter of admonishment or notice of agency action is directed.

(12) "Staff" or "authorized staff member" means a person duly authorized by the director of the Department to perform a particular act.

(13) "subpart" refers to subparagraphs of this rule.

(14) "Utah Alcoholic Beverage Control Laws" means any Utah statutes, Commission rules and municipal and county ordinances relating to the manufacture, possession, transportation, distribution, sale, supply, wholesale, warehousing, and furnishing of alcoholic beverages.

(15) "Warning Sign" means a sign no smaller than 8.5 inches high by 11 inches wide, clearly readable, stating: "Warning: drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child. Call the Utah Department of Health at (insert most current toll-free number) with questions or for more information" and "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah." The two warning messages shall be in the same font size but different font styles that are no smaller than 36 point bold. The font size for the health department contact information shall be no smaller than 20 point bold.

R82-1-208. Percentage Lease Agreements.

- (1) The authority for this rule is Section 32B-1-208
- (2) This rule establishes the following:
 - (a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and
 - (b) the procedure for submitting a percentage lease to the department.
- (3) As used in this section, "Percentage lease" means the same as in Section 32B-1-208.
- (4)(a) The maximum percentage of revenue from alcohol sales allowed in a percentage lease is ~~1920~~ percent, whether that percentage is:
 - (i) described through a rent-sharing or profit-sharing agreement;
 - (ii) calculated in part on the gross sales or profits of the licensee, including profits from the sale of alcoholic beverages; or
 - (iii) described in the percentage lease in some other manner.
- (b) Parties to a percentage lease must submit a copy to the department for review as part of the application for licensing.
 - (c) If during the review process the Department is unable to determine how alcohol sales in a percentage lease agreement are being shared, based on the language in the percentage lease agreement, the department staff shall return the lease agreement and license application, and the Commission may decline to act on the application.
 - (d) An applicant may resubmit a lease once the language in the lease is sufficiently clear for the Department to determine that no more than ~~1920~~% of profits from the sale of alcoholic beverages will be distributed to a lessor.
 - (e) The lessor cannot control or acquire an ownership interest in the business of the lessee.
 - (f) An industry representative is prohibited from profit sharing and ownership of retail license operations.

R82-2-107. Criminal History Background Checks.

(1) Authority. This rule is pursuant to:

- (a) the Commission's powers and duties under 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;
- (b) Sections 32B-1-301 through 32B-1-307 that prohibit certain persons who have been convicted of certain criminal offenses 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 32B-1-102, which authorizes the Commission to define terms.

(2) As used in this rule, a "crime involving moral turpitude" means a crime means a crime that involves actions done knowingly contrary to justice, honesty, or good morals. It is also described as a crime that is "malum in se" as opposed to "malum prohibitum" - actions that are immoral in themselves regardless of being punishable by law 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's property. For purposes of this rule, crimes of moral turpitude may include crimes 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 (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), a person identified in Subparagraph (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 (1)(b) who submitted a criminal background check on or after July 1, 2015 shall not be 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 32B-1-307(4)(iv)(b).

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

(iv) An applicant for employment with benefits with the Department shall be 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);

(ii) the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in 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)(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) 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).

(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 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 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.

R82-2-202.1. Late License Renewals

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(1) Authority. This rule is adopted pursuant to Section 32B-2-202, which authorizes the Commission to make rules permitting and establishing the parameters of late license renewals.

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(+)(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.

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(2)(3) Application.

(a) The Department may accept a late renewal application for a license received at the Department's Administrative Office by 5 p.m. 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 weekend or holiday.

(b) Licensees who fail 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) Each document required for renewal for the specific license type;

(ii) The statutory renewal fee for that license; and

(iii) A late fee either prescribed in 32B-2-202 or adopted in accordance with Section 63J-1-504.

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R82-2-306. Operational Matters.

(1) This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Hours of Operation.

(a) Type 1 ~~and~~, 2, ~~and~~ 5 package agencies may operate from 10 a.m. until 12 midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law. ~~Type 5 package agencies may, at the discretion of the package agent, be open as early as 8 a.m. for sales to licensees with the approval of the Department. Type 5 package agencies may also be open on Sundays and state and federal holidays if the package agency is located at a manufacturing facility licensed by the Commission and the manufacturing facility holds a full-service restaurant license, a limited-service restaurant license, a beer-only restaurant license, or a bar license.~~

(b) Type 3 package agencies may operate from 10 a.m. until 10 p.m., Monday through Saturday, but may remain closed on Mondays at the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department, provided the package agency operates at least seven hours a day.

(c) Type 4 package agencies may operate from 10 a.m. until 1 a.m., Monday through Friday, and 10 a.m. until 12 midnight on Saturday. However, the actual operating hours may be less at the discretion of the package agent with the approval of the Department. A Type 4 package agency in a resort that is licensed under Title 32B, Chapter 8, Resort License Act may operate 24 hours a day, Monday through Sunday to provide room service to the room of a guest of the resort.

~~(d) Type 5 package agencies may operate from 10 a.m. until 12 midnight, Monday through Sunday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 5 package agencies may, at the discretion of the package agent, be open as early as 8 a.m. for sales to licensees with the approval of the Department. Type 5 package agencies may also be open on Sundays and state and federal holidays if the package agency is located at a manufacturing facility licensed by the Commission and only sells alcoholic products produced at the manufacturing facility.~~

~~(e)~~ Any change in the hours of operation of any package agency requires prior Department approval and shall be submitted in writing by the package agent to the Department.

(f)(i) A package agency shall not operate on a Sunday or legal holiday except to the extent authorized by Section 32B-2-605, which allows the following to operate on a Sunday or legal holiday:

(A) a package agency located in certain licensed wineries, breweries, and distilleries; and

(B) a package agency held by a resort that is licensed under Title 32B, Chapter 8, Resort License Act that does not sell liquor in a manner similar to a state store which is limited to a Type 4 package agency.

(ii) If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday by a Type 2 and 3 package agency.

(3) Size of Outlet. The retail selling space devoted to liquor sales in a Type 2 or 3 package agency must be at least one hundred square feet.

(4) Inventory Size. Type 2 and 3 package agencies must maintain at least 50 code numbers of inventory at a retail value of at least five thousand dollars and must maintain a representative inventory by brand, code, and size.

(5) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.

(6) Purchase of Inventory. Any new package agencies, at the discretion of the Department, will purchase and maintain their inventory of liquor.

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

R82-2-308. Consignment Inventory Package Agencies.

(1) This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Purpose. At the discretion of the Department, liquor may be provided by the Department to a Type 2 and Type 3 Package Agency for sale on consignment pursuant to Subsection 32B-2-605(5). This rule provides the procedures for such consignment sales.

(3) Application of the rule.

(a) Consignment Inventory.

(i) The initial amount of consignment inventory furnished to the Package Agency shall be established by the Department.

(ii) The consignment inventory amount shall be posted to the Department's accounting system as "Consignment Inventory Account."

(iii) The consignment inventory amount shall be stated in the Department's contract with the Package Agency.

(iv) Any adjustment to the consignment inventory amount shall be done using a transfer, shipment, or payment of money. A copy of the transfer, adjusting shipment, or evidence of payment shall be included in the Package Agency's file.

(v) The consignment inventory amount may be adjusted from time to time based on the Package Agency's monthly average sales. Any adjustment shall be made by a properly executed amendment to the Department's contract with the Package Agency. In the event 12-month average sales are lower than the Package Agency's current consignment amount the Department may lower the consignment amount. If the consignment amount is to be reduced the Package Agency must pay for the difference through cash payment or returned inventory. Any adjustment to the consignment amount will be handled through a contract amendment or a new contract.

(b) Payments.

(i) Agencies receiving shipments or transfers are required to have an ACH (Automated Clearing House) payment system set up with the Department.

(ii) Statements showing unpaid debts and applied credits will be generated and emailed to the agencies on each Thursday after credit card payments have been posted that Wednesday to reflect credit card payments received. Ordered liquor inventory will now reflect 30 days to pay from the order date, instead of being due upon order. This generated weekly statement will reflect payments received against the oldest outstanding invoices first. Payments received over those previous statement balances will be credited chronologically against ordered inventory due after previous statements. It is the agent's responsibility to review the statement and contact the Department with any discrepancies prior to the payment date.

(iii) Agents may, in advance of the Department drawing payments via ACH, remit payment to the Department on balances due from outstanding invoices which have not received enough credit card payments or other payments to cover those outstanding balances. Payment will be for the statement total. If no other payment has been received by the due date, payment will be automatically drawn through the ACH process on the due date unless prior arrangements have been made between the agent and the Department.

(iv) Insufficient funds, returned checks, and unpaid balances from a previous statement are past due. The Department may assess the legal rate of interest on the amount owed and the Package Agency may be referred to the Commission for possible termination of the contract and closure.

(v) Any delivery discrepancies shall be resolved using the LQ9 form. Debits or credits shall be issued based on proper completion and submission of the LQ9 form to the Department. Payment shall be made in accordance with the Package Agency's statement by the due date whether or not any discrepancies have been resolved.

(c) Transfers.

(i) Transfers, up or down, shall be adjusted to the Package Agency's payment due the Department.

(ii) Transfers in to the Package Agency will add to the amount owed to the Department.

(iii) Transfers out will subtract from the amount owed to the Department on the next check due to the Department.

(d) Credit and Debit Card Credits.

(i) Credit for credit and debit cards processed at the Package Agency will be posted to the Package Agency's statement.

(ii) It is the agent's responsibility to mail in their settlement report and individual receipts to the Department to receive credit.

(e) Audits.

(i) The Department shall audit the Package Agency at least once twice each fiscal year, but may conduct additional audits if deemed necessary.

(ii) The Package Agency is subject to a Department audit at any time.

R82-2-309. Type 4 Package Agency Room Service -- 50 ml Spirituous Liquor Mini-Bottle/187 ml Wine Sales.

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

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(b) The Commission hereby authorizes; 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.

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(i) The Department to purchase, store, and sell at its state stores spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters; and

(ii) Package agencies to purchase, store, and sell spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters.

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

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(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.

(a) Type 1, 2, and 3 package agencies may purchase, store, and sell spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliters to the general public.

(b) Type 4 package agencies located in hotels and resorts may serve spirituous liquor in bottles as small as 50 milliliters and wine in bottles as small as 187 milliliter bottles as one form of room service sales.

(i) Sale and use of alcohol in the smaller bottle sizes is restricted to providing spirituous liquor and wine to guests in sleeping rooms in the hotel or resort as part of a food and beverage room service program adopted by the hotel or resort, and may not be used for other purposes, or be sold to the general public.

(ii) 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.

(c) Type 5 package agencies may store and sell to the general public their own manufactured and branded spirituous liquor in bottles as small as 50 milliliters and their own manufactured and branded wine in bottles as small as 187 milliliters.

(d) Type 1, 2, 3, and 4 package agencies shall order spirituous liquor and wine in bottles smaller than 200 milliliters in full case lots and all sales are final.

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

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(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 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.

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

(1) This rule is adopted pursuant to Section 32B-185-203310, 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 Section 32B Part 18-5-310.

(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 is approved by the Department, the seller may allow the buyer to use their license to purchase alcoholic product from the Department, but revenue from the sale of alcohol during the transition period must be retained by the seller, less the cost of reimbursing the 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.

~~R82-5-202. Retail License Renewals.~~

~~———— This rule is adopted pursuant to Section 32B-5-202, which authorizes the Commission to make rules permitting and establishing the parameters of late retail license renewals.~~

~~———— For purposes of this rule, "late renewal" means the Department's receipt, after the date of the statutory renewal deadline related to the retail license at issue, of the requisite documents and payment to renew a retail license.~~

~~———— The Department may accept a late renewal application for a retail license received at the Department's Administrative Office by 5 p.m. the 10th day of the month that follows the statutory renewal deadline for that retail 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 weekend or holiday.~~

~~———— Retail licensees who fail to meet the deadline established in Section R82-5-202 must apply for a new retail license.~~

~~———— The licensee seeking late renewal shall submit to the Department:~~

- ~~———— (1) Each document required for renewal pursuant to Section 32B-5-202;~~
- ~~———— (2) The statutory renewal fee for that retail license; and~~
- ~~———— (3) A \$300 late fee.~~

R82-6-701. On Premise Beer Retailer - Commission Approved Activity-Reserved.
Reserved.

(1) This rule is adopted pursuant to section 32B-6-702, which authorizes the Commission to define by rule "Commission-approved activity" related to an on-premise beer retailer license that is not a tavern.

(2) A "Commission-approved activity", for which the Commission may grant an on-premise beer retailer license that is not a tavern, includes the following leisure activities that do not involve the use of a dangerous weapon:

- a. A virtual version of any sport or activity enumerated in section 32B-6-702(2)(a).
- b. A video arcade.
- c. Trail bike park involving off-road trails.
- d. Historic and Scenic Railway.
- e. Recreational climbing facility.
- f. Pickleball.
- g. Badminton.
- h. Bocce ball.
- i. An activity similar to the foregoing activities or similar to those specifically enumerated in section 32B-6-702(2)(a).

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R82. Alcoholic Beverage Control, Administration.

R82-9. Event Permits.

R82-9-101. Authority and Purpose.

(1) Pursuant to Subsections 32B-2-202(1)(c)(i) and 32B-2-202(1)(n), and 32B-9-201(1), this rule establishes procedures and criteria for issuing and denying event permits in accordance with Title 32B, Chapter 9, Event Permit Act.

R82-9-102. Definitions.

(1) For purposes of Subsection 32B-9-303(2)(a), "Conducting" means managing, controlling, hosting, or directing an event. An applicant may be deemed to be conducting the event if there is a contract in which the applicant has been designated as the agent for the event's alcoholic beverage service.

R82-9-201. Application Requirements.

(1) The director will not consider an event permit application until the requirements of Sections 32B-1-304, 32B-9-201-203, 32B-9-304 and 32B-9-405 have been met, including:

(a) A complete application including all documents and supplemental materials listed on the department's application checklist has been submitted to the department within the time periods delineated in this section one month prior to the event; and

(b) the department has conducted an investigation in compliance with Subsection 32B-9-202(1)(a).

(2) Filing timelines

(a) Subject to Subsection R82-9-201(2)(b), applications shall be submitted thirty days prior to the event in order to allow sufficient time for processing and approval.

(b) A late application may will be accepted up to seven business days prior to the event if the Director determines that public safety will not be compromised and sufficient time exists to ensure compliance with the notice requirements mandated in Subsection 32B-9-202. A late application will be reviewed as time allows and is not subject to the provisions in Subsections R82-9-201.1(1)(ii) and R82-9-201.1(1)(iii).

(3) For purposes of Subsection 32B-2-201(2), a substantial change in an event application means a modification that seeks to alter the number of attendees, location, control measures, or any other substantive detail beyond changing the date of the event.

R82-9-201.1. Guidelines for Issuing Permits.

(1) Once submitted to the director, the application will be considered in accordance with Sections 32B-9-202, 32B-9-303, and 32B-9-403, including consideration of Section R82-9-202.

(i) After consideration of the totality of the circumstances, the director will either issue a preliminary decision to issue or deny the event permit or refer the application to the commission in accordance with Subsection 32B-9-202(3).

(ii) If the director issues a preliminary decision to deny issuance of an event permit, the decision shall be provided in writing detailing the basis for the denial.

(iii) An applicant may submit a request for review by the commission within the time limits of Subsections 32B-9-202(3)(b) and 32B-9-202(3)(c) related to the three business day review period and regularly scheduled commission meetings. If at least three commissioners request review of the denial in compliance with Subsections 32B-9-202(3)(b) and 32B-9-202(3)(c), the commission shall review the request at its next regularly scheduled commission meeting.

(2) In accordance with Subsection 32B-9-202(2)(d), the director may authorize multiple sales outlets on different properties under one single event permit, provided that each site conforms to location requirements of Subsection 32B-9-201(4)(1).

(3) Any approval, notification, request for a meeting, or requirement to inform under Section 32B-9-202 shall be done electronically.

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

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

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

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

(c) Notwithstanding Subsection (1), 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), 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 Section (3).

(3) In accordance with Subsection 32B-9-202(2)(d), 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.

(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 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 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;

(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.

(b) In accordance with Subsection 32B-9-202(2)(e), 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.

(c) 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) 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.

KEY: alcoholic beverages, event permits

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