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| **Notice of Proposed Rule** |
| **TYPE OF RULE:** Amendment |
| **Rule or Section Number:** | **R82-1-102** | **Filing ID: 54841** |

**Agency Information**

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| **1. Department:** | Alcoholic Beverage Services |
| **Agency:** | Administration |
| **Street address:** | 1625 S 900 W |
| **City, state and zip:** | Salt Lake City, UT 84104 |
| **Mailing address:** | PO Box 30408 |
| **City, state and zip:** | Salt Lake City, UT 84130-0408 |
| **Contact persons:** |
| **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:** |
| R82-1-102. Definitions |
| **3. Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?)**:** |
| S.B. 176, passed in the 2022 General Session, expanded the Department of Alcoholic Beverage Services' ability to examine whether a producer who is applying for the reduced markup pursuant to Subsection 32B-2-304(3) is part of a "controlled group of manufacturers", and granted the commission rulemaking authority to define "controlled group of manufacturers." In 2021, the commission defined "controlled group of breweries" pursuant to rulemaking authority granted in H.B. 371. This amendment modifies this section to apply to all types of alcohol manufacturing. |
| **4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:** |
| This amendment will modify the section to define "controlled group of manufacturers." |

**Fiscal Information**

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| **5. Provide an estimate and written explanation of the 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 S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section 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 governments are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section 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 S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section 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 S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section 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***)**:** |
| None--Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section does not create additional cost or savings beyond what was anticipated during the legislative process. |
| **F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?)**:** |
| There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of S.B. 176 (2022). Costs and savings for administering this change were calculated as part of the fiscal note. This section 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** | **FY2023** | **FY2024** | **FY2025** |
| 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** | **FY2023** | **FY2024** | **FY2025** |
| 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 comments on fiscal impact and approval of regulatory impact analysis:** |
| The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, has reviewed and approved this fiscal analysis. |

**Citation Information**

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| **6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:** |
| Section 32B-2-304 | Section 32B-2-202 |  |

**Public Notice Information**

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| **8. 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. See Section 63G-3-302 and Rule R15-1 for more information.) |
| **A) Comments will be accepted until:** | 10/17/2022 |

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| **9. This rule change MAY become effective on:** | 10/24/2022 |
| NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.  |

**Agency Authorization Information**

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| **Agency head or designee and title:** | Tiffany Clason, Executive Director | **Date:** | 08/24/2022 |

**R82. Alcoholic Beverage [~~Control~~]Services, Administration.**

**R82-1. General.**

**R82-1-102. Definitions.**

 Definitions of terms in the Act are used in [~~these rules~~]Title R82, except where the context of the terms in [~~these rules~~]Title R82 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 [~~Breweries~~]Manufacturers" means a group of incorporated or non-incorporated [~~breweries~~]alcohol manufacturers that are related directly or indirectly through more than 50% common ownership or control by any person[ ~~or persons~~]. Additionally, a[]n alcohol manufacturer[~~brewery~~] is considered to be part of a controlled group of [~~breweries~~]manufacturers if more than 50% of the [~~brewery~~]alcohol manufacturing entity is owned or controlled directly or indirectly either by, or in common with, another [~~brewery or breweries~~]alcohol manufacturer.

 (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)~~]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.

**KEY: alcoholic beverages**

**Date of Last Change: [~~June 1,~~] 2022**

**Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-208; 32B-1-304(7)(a); 32B-1-304(7)(b)**

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