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| **Notice of Proposed Rule** |
| **TYPE OF RULE:** Amendment |
| **Rule or Section Number:** | **R82-2-306** | **Filing ID: 54844** |

**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:** |
| R82-2-306. Operational Matters |
| **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, modified Subsection 32B-2-605(13) to allow Type 5 package agencies to sell alcohol on Sundays and holidays if the manufacturer associated with the package agency also had a bar or restaurant license. This proposed rule simply reflects this change in statute. |
| **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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:** |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 rule to allow Type 5 package agencies to sell alcohol on Sundays and holidays if the manufacturer associated with the package agency also holds a bar or restaurant license. |

**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-2-605 | 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 Services, Administration.**

**R82-2. Administration.**

**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 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.

 ([~~d~~]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.

 ([~~e~~]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.

**KEY: alcoholic beverages**

**Date of Last Change: [~~August 3,~~] 2022**

**Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-1-206**

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