

R82. Alcoholic Beverage Control, Administration.

R82-10. Special Use Permits

R82-10-101. Application.

(1) Authority. This rule is made pursuant to the implicit authority Title 32B, Chapter 10, Special Use Permit Act, and the explicit authority of section 32B-2-202, which authorizes the Commission to make rules regarding the procedures and criteria for a permittee applicant.

(2) An application for a special use permit will only be included on the agenda of a monthly Commission meeting for consideration for issuance of a special use permit if:

(a) the applicant has first met all requirements of sections 32B-1-304 and 32B-10-202 and 32B-10-205, including submission of a completed application, payment of application and permit fees if required for the type of permit being sought, statement of purpose for which the applicant applies for the permit, types of alcoholic product the person intends to use under the permit, written consent of local authority, a bond if required, and a floor plan if required; and

(b) the Department has inspected the premise where the applicant intends to utilize the permit.

(3)(a) All application requirements of subpart (2)(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 on that month's Commission meeting agenda unless 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) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in subpart (3)(a) of this rule will not be considered by the Commission that month, but will be included on the agenda of the Commission meeting the following month.

R82-10-102. Direct Delivery.

(1) Authority. This rule is made pursuant to the implicit authority Title 32B, Chapter 10, Special Use Permit Act, and the explicit authority of section 32B-2-202, which authorizes the Commission to make rules regarding the procedures and criteria for a permittee applicant.

(2) Industrial, manufacturing, scientific, educational, and health care special use permittees may purchase alcohol directly from the manufacturer and have it shipped directly to the permittee's address, provided the alcohol is used for industrial, manufacturing, scientific, educational, or health care purposes.

R82-10-201. Reserved.

Reserved.

R82-10-301. Public Service Permittee Operating Guidelines.

(1) Authority. This rule is made pursuant to the implicit authority Title 32B, Chapter 10, Special Use Permit Act, and the explicit authority of section 32B-2-202, which authorizes the Commission to make rules regarding the procedures and criteria for a permittee applicant.

(2) A public service permittee that operates on an interstate basis may purchase liquor outside of the state and bring it into the state and purchase liquor within the state and sell, store and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance. However, all liquor utilized within a public service permittee's hospitality room must be purchased from a state liquor store or package agency within this state.

(3) All liquor transported from outside the state to the permittee's storage facility shall be carried in sealed conveyances which may be inspected at any time by the Department.

(4) A public service permittee shall keep available and open for audit during regular business hours, complete and accurate records of alcoholic product shipments to and from their storage facility. Records shall be kept for a minimum of three years.

(5) A public service permittee shall allow the Department, through its auditors or examiners, to audit all records relating to the storage, sale, consumption and transportation of alcoholic products by the permittee.

(6) All public service permittees which utilize a hospitality room shall display in a prominent place a "warning sign," as defined in R82-1-102.

R82-10-401. Industry Rep Special Use.

(1) Authority. This rule is made pursuant to the implicit authority Title 32B, Chapter 10, Special Use Permit Act, and the explicit authority of section 32B-2-202, which authorizes the Commission to make rules regarding the procedures and criteria for a permittee applicant.

(2) No license application will be included on the agenda of a monthly Commission meeting for consideration for issuance of a local industry representative license until the applicant has first met all requirements of sections 32B-1-304 and 32B-11-606, and 32B-11-604, including submission of a completed application, payment of application and licensing fees, verification the person is a resident of Utah, a Utah partnership, a Utah corporation, or a Utah limited liability company, and an affidavit stating the name and address of any manufacturer, supplier, or importer the person will represent.

(3)(a) All application requirements of subpart (2) 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 on that month's Commission meeting agenda unless 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) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in subpart (3)(a) of this rule will not be considered by the Commission that month, but will be included on the agenda of the Commission meeting the following month.

R82-10-402. Industry Participation in Educational Seminars Involving Liquor, Wine, and Heavy Beer.

(1) Authority. This rule is pursuant to sections 32B-4-401 and 32B-4-701 through 32B-4-708. These provisions: preclude an industry member from selling, shipping, transporting, furnishing or supplying or causing the selling, shipping, transporting, furnishing or supplying of liquor, wine, and heavy beer products to another within this state other than the Department, a military installation, a holder of a special use permit to the extent authorized in the permit, and a bonded liquor warehouse; preclude an industry member from supplying anything of value except as allowed by law; preclude an industry member from giving away any of its alcoholic products to any person except for testing, analysis, and sampling purposes by the Department and local industry representative licensees to the extent authorized by 32B, Chapter 10, Special Use Permit Act; allow an industry member to participate in educational seminars involving the Department, retailers, holders of educational or scientific special use permits, or other industry members under certain conditions, but preclude the use of samples at such seminars; and allow an industry member to serve alcoholic

products to others at a private social function hosted by the industry member so long as the product is not served as part of a promotion of the industry member's products or as a subterfuge to provide samples to others for product testing, analysis, or sampling purposes.

(2) Definitions. For purposes of this rule:

(a) "Educational seminar" means an educational class involving the study of alcoholic beverages attended only by students who have registered in advance for the course, a privately-hosted event or social function held by a private group engaged in the study of alcoholic beverages, and a private training session held by a retailer for the purpose of educating the retailer and the retailer's employees of the qualities and characteristics of alcoholic beverages. An educational seminar does not include a seminar to which the general public is invited to attend.

(b) "Industry member" means a liquor, wine or heavy beer manufacturer, supplier, importer, wholesaler, or any of its affiliates, subsidiaries, officers, directors, agents, employees, or representatives.

(c)(i) "Private event" means a specific social, business, or recreational event for which an entire room, area, or hall is leased, rented, or reserved, in advance by an identified group, and the event is limited in attendance to people who are specifically designated and their guests.

(ii) "Private event" does not include an event to which the general public is invited whether for an admission fee or not.

(d) "Retailer" means the holder of an alcoholic beverage license or permit issued by the Commission to allow the holder to engage in the sale of alcoholic beverages to consumers, or any of the holder's agents, officers, directors, shareholders, partners, or employees.

(e)(i) "Sample" means liquor, wine and heavy beer that is placed in the possession of the Department for testing, analysis, and sampling by the Department, or for testing, analysis, and sampling by local industry representatives on the premises of the Department. Samples are furnished by industry members to the Department for these purposes at no cost, and are labeled by the Department as samples.

(ii) Sample does not include liquor, wine and heavy beer that is sold by the Department at retail after taxes and markup have been included.

(3) General Purpose. This rule authorizes industry representatives, under certain restrictions, to attend and participate in educational seminars where liquor, wine and heavy beer products are analyzed, tested, and tasted.

(4) Application of Rule.

(a) An industry member may attend and participate in an educational seminar where liquor, wine and heavy beer products are analyzed, tested, and tasted only as the invited guest of the host of the seminar. An industry member may not directly or indirectly host, organize, or otherwise arrange for an educational seminar where such products are present.

(b) Liquor, wine and heavy beer products used at an educational seminar must be purchased by the host from the Department at full retail. An industry member may not directly or indirectly furnish or otherwise provide the liquor, wine and heavy beer products for the seminar. No liquor, wine or heavy beer samples may be present or used at an educational seminar. Tastings involving samples may occur only on the Department's premises in accordance with section 32B-4-705.

(c) An industry member may be invited by the host to lecture, and analyze, test, and taste the liquor, wine and heavy beer products during the industry member's presentation at an educational seminar.

(d) An educational seminar where liquor, wine and heavy beer products are present may not be used by an industry member to introduce retailers to new products which are not presently listed by the Department for sale in this state.

(e) An educational seminar may not be open to the general public.

R82-10-501. Educational Wine Judging Seminars.

(1) Definition of Applicant. An applicant is any person or organization who is applying for an educational wine judging seminar permit, whose purpose is to inform and educate about the qualities and characteristics of wines.

(2) Application. The applicant must meet the requirements and qualifications for a scientific or educational special use permit found in sections 32B-1-304 and 32B-10-202. In addition, the applicant must submit to the Department a detailed proposal of the seminar which must include the qualifications of the judges, the number of wines being submitted by the wineries, and the location of the seminar. Additional information may be requested by the Commission or Department to properly evaluate the application.

(3) The applicant must post a cash or corporate surety bond in the penal sum of \$1,000 payable to the Department, which the permittee has procured and must maintain for as long as the permittee continues to operate as a special use permittee. The bond shall be in a form approved by the attorney general, conditioned upon the permittee's faithful compliance with 32B, Chapter 10, Special Use Permit Act and the rules of the Commission. If the surety bond is canceled due to the permittee's negligence, a \$300 reinstatement fee may be assessed. No part of any cash bond so posted may be withdrawn during the period the permit is in effect. A bond filed by a permittee may be forfeited if the permit is finally revoked.

(4) The application for the educational wine judging seminar permit must be completed and submitted 90 days before the seminar date.

(5) Restrictions. Any person granted an educational wine judging seminar permit must meet the following requirements and restrictions:

(a) The techniques used in judging the wines must meet internationally accepted techniques of sensory or laboratory evaluation, and the wines used may not be consumed.

(b) All unopened bottles must be returned to the Department and any wine product residual in open bottles must be destroyed by the permittee.

(c) The educational wine judging seminar permit has an automatic expiration date of three days following the scheduled ending date of the seminar.

(d) The permittee must comply with R82-1-104 regarding advertising of the seminar.

(6) Procedures for Handling the Seminar.

(a) The permittee must order all wines used in the seminar from the Department. The Department will order the wines from the wineries designating on the order that they are for a wine judging seminar. The permittee must make prior arrangements with the wineries to have the wines sent to the Department at no charge and freight prepaid.

(b) The wines will be entered into the Department's accounting system at no cost and will be given a special Department number, designating the wines as those to be used with an educational wine judging seminar permit and not to be consumed.

(c) The wines will be delivered to the permittee from the Department. After the seminar, the permittee will return all unopened bottles of wine to the Department and the permittee will destroy any other residual wine products left. The permittee will pay to the Department a fee of two dollars for every bottle of wine used in the judging seminar.

(d) All wines returned to the Department become the property of the state and will be destroyed under controlled conditions or will be given a new Department number and sold in the state's retail outlets, which profits will be property of the state.

R82-10-601. Religious Wine Permits.

(1) Authority. This rule is made pursuant to the implicit authority Title 32B, Chapter 10, Part 6, Religious Use of Alcoholic Products, and the explicit authority of section 32B-2-202, which authorizes the Commission to make rules regarding the procedures and criteria for a permittee.

(2) Purpose. This rule outlines the procedures for a religious wine permit holder to purchase wine for religious purposes, and the procedures Department personnel shall follow to process the purchase.

(3) Application of Rule.

(a) The permit holder may purchase any generally listed wine directly off the shelf of any state store or package agency at a charge of cost plus freight. The cashier shall first verify that the purchasing religious organization is a holder of a permit on file in the Department's licensee or permittee data base. The cashier shall determine the cost plus freight price of the wine. The wine may be purchased only with cash or a check belonging to the religious organization, and not with an individual's personal check or credit card. Checks shall be deposited in the ordinary course of business with other checks.

(b) The permit holder may order wine for religious purposes directly from a winery and have the winery ship the wine prepaid at a charge of cost plus freight to the Department's central administrative warehouse. The warehouse shall deliver the wine to the state store or package agency nearest to the permit holder's church. The state store or package agency shall notify the permit holder when the product is available for pick-up.

(c)(i) The permit holder may place a special order for wines not generally listed by the Department only if the winery will not sell directly to the permit holder.

(ii) Special orders may be placed only with the special order clerk at the Department's administrative office.

(iii) No special orders may be placed with a state store or package agency.

(iv) The special order clerk shall verify that the purchasing religious organization is on file in the Department's licensee or permittee data base, place the order, assign it a special order code number, assess a charge of cost plus freight, and have the wine delivered to the state store or package agency nearest to the permit holder's church.

(v) The state store or package agency shall notify the permit holder when the product is available for pick-up.

(vi) All procedures for processing the purchase that are outlined in (3)(a) above shall be followed by the state store or package agency to complete the sale.

KEY: alcoholic beverages

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